

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF OREGON

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	No. 05-60008-2-HO
	)	
v.	)	September 2, 2010, P.M. Session
	)	
PIROUZ SEDAGHATY, et. al.,	)	Eugene, Oregon
	)	
Defendants.	)	

TRANSCRIPT OF PROCEEDINGS  
BEFORE THE HONORABLE MICHAEL R. HOGAN  
UNITED STATES DISTRICT COURT JUDGE

- :-

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Agent Carroll

## INDEX TO WITNESSES

**FOR THE  
PLAINTIFF:****Direct****Cross****Redirect**

Christopher Wooten

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Colleen Anderson

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1 EUGENE, OREGON; THURSDAY, SEPTEMBER 2, 2010; 1:14 P.M.

2 -o0o-

3  
4 THE COURT: Okay. Go ahead.

5 MR. CARDANI: Thank you.

6 **DIRECT EXAMINATION OF GREGORY WOOTEN** (continued)

7 BY MR. CARDANI:

8 Q. So you send your request for information  
9 out to the exempt organization, you tailor it  
10 toward the profession, if you received information  
11 that one of these organizations had fairly  
12 significant overseas distributions, distribution  
13 that was not reported on the 990, would that shape  
14 the information that you requested from the  
15 organization before the official audit?

16 A. If -- so you're asking me if an organization -- if I  
17 had a referral indicating that an organization had made  
18 overseas distributions and not reported that on the form 990,  
19 would I ask questions about that?

20 Q. Yes.

21 A. Yes. Absolutely. As part of the preaudit analysis  
22 in that case, I would review the form 990 and see if in fact  
23 there were these overseas distributions that were in the  
24 referral on the 990, and possibly just somebody was absolutely  
25 wrong. If I did not see them on the 990, I'd ask the

1 question.

2 Q. Okay. And you've mentioned about this  
3 expenditure responsibility. Would you expect in a  
4 situation like this that the exempt organization  
5 would have to provide the type of documentation you  
6 talked about as part of this receipt and  
7 expenditure responsibility?

8 A. Yes. The questions that I would ask of the  
9 organization in this initial contact letter would say: Did  
10 you expend funds overseas? And, if so, why were these not  
11 reported on the 990 and how did you expend these funds?

12 Q. Now, could this result in an interview  
13 with the exempt -- the head of the person that  
14 signed the 990?

15 A. Yes, it could.

16 Q. Okay. So --

17 A. Usually did.

18 Q. I'm sorry?

19 A. I was going to say usually, in the situation where  
20 we have an examination of a 990, we would do an interview of  
21 the officer of the organization. We'd also go out and tour  
22 the organization's facilities.

23 Q. All right. So let's just get right down  
24 to it. Let's say that this audit process is  
25 completed and you find that an exempt organization

1 has done something -- something wrong. Are there a  
2 range of sanctions available to EO with respect to  
3 how to deal with it?

4 A. Yes. There's a very broad range of sanctions that  
5 would be available to exempt organizations.

6 Q. Start with the most -- like hand-slapping  
7 minimum and then work your way up.

8 A. Sure. Okay. The first and definitely the most  
9 minimal of sanctions would be what we would call an advisory  
10 letter. In that case, if there was something incorrect on the  
11 return, and it was something that was wrong but we deemed it  
12 to be a very minor, potentially nonrecurring item, we would  
13 simply send the organization a letter that indicated our  
14 examination was complete and we've had no changes to their  
15 exempt status, however, we do note that there were certain  
16 deficiencies in the organization's reporting activities.

17 We would then describe that deficiency and say that  
18 the occurrence of that deficiency could result in --  
19 potentially excised tax up to revocation of the organization's  
20 tax-exempt status.

21 Q. So you'd fine the organization?

22 A. I'm sorry?

23 Q. Can you fine the organization?

24 A. Can we fine the organization?

25 Q. Yeah.

1           A.    We can fine organizations if we find that their  
2    990s, for example, are grossly insufficient. Grossly  
3    misstated. There are also excised taxes that we can impose  
4    which are a little bit different than a fine. Excised taxes  
5    can potentially be imposed on organizations. There are  
6    officers --

7           Q.    Okay. And you can propose actual  
8    revocation of the exempt organization status?

9           A.    That's correct. That is another potential. If we  
10   find that the activity is a significant nonexempt activity, we  
11   can propose revocation. If we propose revocation of the  
12   organization after the appeal process, the organization would  
13   then have to file an 1120, a corporate income tax return, and  
14   pay tax as a normal corporation.

15          Q.    All right. And getting up a little bit,  
16   civil fraud, if you find that there's actually  
17   fraud involved, you can start with the civil side?

18          A.    That's -- that's correct. We can also make a  
19   referral to -- to fraud on these cases if we find that there  
20   are significant activities and we find evidence that they are  
21   -- that the activities are intentional. We can make referral  
22   to the fraud side and they can have us pursue civil fraud or  
23   they could potentially pursue criminal fraud.

24          Q.    Now, can a 501(c)(3) organization  
25   distribute money overseas?

1           A.    Yes.  A 501(c)(3) can distribute funds overseas as  
2   long as they exercise the expenditure responsibility that  
3   we're talking about.

4           Q.    And it has to be consistent with their  
5   reason they're an exempt organization?

6           A.    Absolutely.  It needs to be consistent with their  
7   501(c)(3) stated purposes or section 501(c)(3) code.

8           Q.    Okay.  And are overseas transactions  
9   monitored a little bit more -- scrutinized a little  
10  bit more significantly by EO?

11          A.    An overseas transaction would be scrutinized a  
12  little bit more by EO simply because, as I mentioned earlier,  
13  we have situations where within the U.S., we have the banking  
14  system, the banking regulations, currency reporting  
15  requirements, many different controls where funds leave the  
16  U.S.  Many of those controls leave with the money.

17          Q.    All right.

18          A.    There -- therefore, we have to scrutinize the  
19  transaction a little bit more.

20          Q.    And especially if they were cash or  
21  traveler's checks for the reasons you mentioned?

22          A.    Yes.  If it was cash, more so.

23          Q.    And would this include funds being sent  
24  over with the intent that they make their way into  
25  a war zone?



1 A. Yes, it would.

2 Q. Now, if a -- if an exempt organization,  
3 Mr. Wooten, sends money overseas for the purposes  
4 of true humanitarian relief to refugees, let's say,  
5 and they don't report that in the form 990 for that  
6 year, does your shop care about that?

7 A. If the organization made any type of distribution  
8 and did not report it on the 990, it would be something  
9 significant that we would want to have corrected if we were  
10 doing an examination.

11 In your example, if the organization were to  
12 distribute those funds for true humanitarian purposes, that  
13 would possibly be a situation where we'd just be giving the  
14 organization an advisory letter, though it may be that they  
15 just did not understand the method for reporting something  
16 like that.

17 Q. But you'd want to know about it?

18 A. Absolutely, yes.

19 Q. Okay. And its absence on a 990, would  
20 that be significant to the IRS if it was -- if the  
21 transaction occurred but it was not reported at  
22 all?

23 A. Yes, it would.

24 Q. Okay. Even if it was just for true  
25 humanitarian purposes?

1           A.    It would still be a misstatement on the 990 that we  
2 would be concerned with, yes.

3           Q.    What would your concern be?

4           A.    Well, if -- even if these funds ultimately were  
5 decided to have gone to a true humanitarian purposes, it -- it  
6 demonstrates that the organization may not have proper  
7 controls in place to control their funds or to track their --  
8 do their books or to track their expenditures. Therefore,  
9 this would be a situation where we would potentially advise  
10 the organization that you need to track these things, you need  
11 to report those to us, or you could have an effect on your  
12 exempt status.

13                If this were --

14           Q.    Okay. I'm sorry.

15           A.    I was going to say if this were a significant dollar  
16 amount, and we advised the organization of that, and they did  
17 it again, that might be one of the situations where there  
18 could be a civil penalty imposed upon the organization, for  
19 example, for failing or -- for filing a false 990 return.

20           Q.    Okay. What if it was sent with the  
21 intention on funding insurgents for acts of  
22 violence overseas?

23           A.    If these funds were being -- if we did an  
24 examination and found that these funds were being used to fund  
25 insurgents, then that would likely be something that would be

1 considered contrary to 501(c)(3) purposes and lead to a  
2 proposal of revocation of exempt status of the organization.

3 Q. Can a 501(c)(3) send money to people to  
4 commit acts of violence?

5 A. If a 501(c)(3) were sending money to people to  
6 commit acts of violence, then that would be contrary to public  
7 policy of a 501(c)(3), contrary to the terms defined in  
8 section 501(c)(3), charitable, educational, scientific,  
9 literary, prevention of cruelty to children and animals, and  
10 therefore that would not be consistent with their exempt  
11 purpose.

12 Q. Okay. I'd like to show you IRS-1. And  
13 if we could go to the face page. Mr. Wooten, did  
14 you ever -- did TEG ever audit this al-Haramain  
15 2000 form 990?

16 A. No. Exempt Organizations never audited this 990,  
17 although I have seen this 990 before, yes.

18 Q. Okay. Why didn't you audit it?

19 A. We did not -- exempt organizations did not audit  
20 this because when exempt organizations became involved in a  
21 review of this, this case was already under criminal  
22 investigation.

23 Q. And so is it policy -- what's the policy  
24 within EO?

25 A. Well, it's not actually a policy within EO. As --

1 it's a legal ruling that we cannot pursue a civil matter at  
2 the same time a criminal matter is being pursued in the same  
3 activity. Therefore, as long as this case is being pursued  
4 criminally, we could not have done civil examination.

5 And the reverse of that is if we do a civil  
6 examination, and we find something that we feel needs to be  
7 referred for criminal review, then we have to stop our civil  
8 examination.

9 Q. Okay. I forgot to ask you about  
10 something. Before we get to the 990 --

11 A. Sure.

12 Q. -- you mentioned this expenditure  
13 responsibility that you'd be looking for during an  
14 audit. If you received information that a charity  
15 had sent money overseas and requested  
16 documentation -- I'm going to show you an exhibit  
17 that's been marked as AHIF-2. And if we could  
18 expand that a little bit. Could you read that to  
19 yourself?

20 A. Oh, sure. (Witness reads.) I'm familiar with this  
21 document. I've reviewed this document before.

22 Q. All right. If the EO -- if the exempt  
23 organization said that they distributed money that  
24 was not listed on its 990, and you requested  
25 documentation, would this fit the bill?

1           A.     This would not -- this would not meet the  
2 requirements of expenditure responsibility. As I see it, this  
3 document is only a document where the exempt organization is  
4 transferring funds over to an individual, and although there  
5 is a general statement about, "It's for the brothers and  
6 sisters," it, first of all, does not indicate what the funds  
7 are being used for. And there aren't -- there is no  
8 supporting documentation whatsoever that these funds are being  
9 used for a charitable purpose.

10           Q.     Well, if we could scroll down to the  
11 bottom. There's a -- isn't that your support right  
12 there?

13           A.     All it says here is: "I deposit the amount in" -- I  
14 believe it says -- "al-Haramain head office for Chechnyan  
15 refugees." That is simply a statement. That is not  
16 supporting documentation.

17           Q.     Okay. All right. And if I could show  
18 you AHIF-3. Now, you're familiar with this one  
19 too, Mr. Wooten?

20           A.     Yes. I'm familiar with this document.

21           Q.     Okay. You know that it has different  
22 amounts in the line here, 188 as opposed to 186?

23           A.     Yes. I previously reviewed this document and I -- I  
24 understand that this is a document to -- relating to the same  
25 transaction as the previous document.

1 Q. And if we could do a side-by-side of  
2 AHIF-2 and AHIF-3, if you did an audit of an  
3 organization and asked them to report -- to provide  
4 their expenditure responsibility, and give you the  
5 receipts justifying their claim that money went  
6 overseas for humanitarian relief, and you were  
7 given not one but both of these reporting the same  
8 transaction, how would you react in an audit  
9 situation?

10 A. I would be even more concerned simply because we  
11 have two documents here for these same dollar amounts.  
12 Obviously, one of these is incorrect and it draws both of them  
13 into question.

14 Q. Now, you mentioned potential fraud. If  
15 you saw things like this during an audit, might  
16 this trigger a referral for fraud?

17 A. Yes. This may lead to a -- excuse me, a referral  
18 for fraud simply because we have multiple documents that are  
19 purporting to document the same transaction which obviously  
20 are incorrect.

21 Q. Now, if we could go back, I'm sorry, to  
22 IRS-1 now. And if an organization provides true  
23 humanitarian relief to refugees overseas, that  
24 would be reported in the -- in a part of the 990;  
25 is that right?

1 A. That's correct.

2 Q. Okay. Let's go to the bottom of page  
3 two, and up here it's a statement of program  
4 service accomplishments. And is this where you'd  
5 expect to see it?

6 A. This is one of the places on the 990 where you would  
7 expect to see that, yes.

8 Q. And you see down on C, it says:  
9 "Humanitarian aid. The foundation receives  
10 requests for aid and makes donations to some of  
11 them," and a figure there of 24,000 and change?

12 A. Uh-huh.

13 Q. If information came to your attention  
14 that -- that the organization was claiming that it  
15 distributed far more than that, over a hundred  
16 thousand dollars, rather than 24, and this came to  
17 your attention, would that be of some concern?

18 A. Yes, it would.

19 Q. Why?

20 A. Because the amounts are not reported on the 990  
21 return. And if the -- if the funds actually did go somewhere,  
22 the 990 returns have checks and balances on them. Therefore,  
23 that would be an indication that a significant portion of the  
24 990 may be incorrect.

25 Q. So your concern would be one of

1 concealment?

2 A. That -- that is correct. That some of the -- that  
3 this transaction may be reported somewhere -- somewhere other  
4 than where it should be on the 990 return.

5 Q. Even if the distribution was consistent  
6 with its charitable purposes?

7 A. It would still be an indication that something was  
8 incorrect on the 990 return, yes.

9 Q. And line 22, at the top of that page,  
10 grants and allocations. Is this another area where  
11 distributions overseas would be picked up on a  
12 return?

13 A. Yes.

14 Q. And then if we could go towards the end  
15 of the return, schedule A. Is a schedule A part --  
16 another one of the forms that go on an 990?

17 A. Yes, it is. For this particular organization, the  
18 organization was required to file a schedule A.

19 Q. Okay. And then -- okay. And so this is  
20 the schedule A for al-Haramain in its 2000 form  
21 990.

22 I'd like you to go to -- direct you to  
23 page six. And if we could expand 51. Okay. What  
24 is it -- it's information regarding transfers to  
25 and transactions and relationships with



1 noncharitable EOs. Okay. Does this have to do  
2 with what you were talking before in the  
3 record-keeping thing -- of the letter that we  
4 talked about that when you give money to a  
5 nonexempt organization, you really have to do a  
6 better job of keeping records?

7 A. Yes. This -- this is specifically asking the  
8 organization if they gave funds to a non501(c)(3)  
9 organization, and, if so, in what form funds were given to a  
10 non501(c)(3) organization. Yes. This relates to the  
11 expenditure responsibility requirements of organizations we  
12 discussed earlier.

13 Q. All right. And in this form, the  
14 defendant said -- when asked about transfers from  
15 the reporting organization to a noncharitable  
16 exempt organization of cash or other assets, line  
17 51, you see "no" checked off both times there?

18 A. That's correct. I see "no" checked off both times.

19 Q. Do you know if al-Haramain in Saudi  
20 Arabia is a 501(c)(3) organization here in the  
21 United States?

22 A. Based upon my research, I did not find that  
23 al-Haramain was a United States 501(c)(3) public charity or  
24 501(c)(3) charity at all.

25 Q. Now, if al-Haramain had distributed money

1 overseas for any purpose whatsoever, humanitarian  
2 aid or to armed fighters, would you expect it to be  
3 reported among other places here?

4 A. I would expect it to be reported here if it were not  
5 distributed to another 501(c)(3) organization, yes.

6 Q. And elsewhere in the return. You've  
7 talked about that. And if it was not reported at  
8 all, whether for humanitarian aid or for fighters,  
9 the IRS would care about that?

10 A. That is -- that is an item that should have been on  
11 the 990 return that was not reported on the 990 return. So,  
12 yes, that would be an incorrect 990 and we would care about  
13 that, yes.

14 Q. Can a -- can you amend one of these  
15 things if you make a mistake?

16 A. Can you amend a 990? Yes. You can amend a 990.  
17 You can amend the attached schedule A. You can amend it more  
18 than once if you need to.

19 Q. Oh, was -- I'm sorry. Was al-Haramain in  
20 Saudi Arabia a 501(c)(3) in the year 2000?

21 A. No, they were not.

22 Q. Now, you can file -- like we can as  
23 individuals, you can amend a return if you find  
24 that you made a mistake?

25 A. That's correct.

1 Q. And does that occasionally happen?

2 A. Yes. We -- we receive amended 990s quite often  
3 within exempt organizations.

4 Q. To the best of your knowledge, did this  
5 organization, al-Haramain here in the United  
6 States, ever file an amended return for the year  
7 2000?

8 A. No, they did not.

9 Q. Now, you've audited quite a few of these  
10 returns. You've already said that. In your  
11 experience, has the IRS revoked tax-exempt status  
12 for 501(c)(3)s based on false information provided  
13 in 990s?

14 A. Yes. The IRS has revoked organizations for false  
15 information on 990s.

16 Q. And have you imposed sanctions less than  
17 full revocation in similar situations?

18 A. We have imposed sanctions less than full revocation  
19 as well, yes.

20 Q. And are you aware of situations where  
21 there was revocations for organizations like this  
22 distributing money overseas, but were found to be  
23 in a manner contrary to public policy?

24 A. There have been revocations for those purposes, yes.

25 MR. CARDANI: If I may have a moment.

1 (Counsel confer.)

2 Q. (By Mr. Cardani) Mr. Wilcox (sic), if we  
3 could go back to the return, page one. Assume  
4 hypothetically that an organization received  
5 \$150,000 in a charitable donation, and reported it,  
6 and the money went to overseas --

7 A. Okay.

8 Q. -- and the organization reported it in a  
9 manner, including in line one that said that some  
10 of the money was actually returned to the original  
11 donor when it was not. Would that be a problem to  
12 the IRS?

13 A. You're asking me if it would be a problem if there  
14 were a reporting that funds went back to the original donor?

15 Q. Yes. And it did not.

16 A. Yes. It would be a problem.

17 Q. And is \$21,0000 what you would consider a  
18 large or out-of-the-ordinary transaction?

19 A. \$21,000, yes. That would be a significant -- that  
20 would be a significant transaction, especially for an  
21 organization that brings in, in this example, \$561,000 in  
22 direct public support.

23 Q. Okay. If we could go to page three, line  
24 57. Now, this seemed -- I'm going to describe this  
25 as a more mundane part of the return, but land,

1 buildings, and equipment basis, and so on and so  
2 forth. Is that typically one of the hot areas in  
3 auditing these type of returns?

4 A. Land, buildings, and equipment is usually a fairly  
5 static area within a return. So, no, it's not really a hot  
6 area if you want to call it that.

7 Q. All right. If you've received  
8 information that an organization had received over  
9 a hundred thousand dollars in a donation, but had  
10 not reported it in the 990 as an overseas  
11 distribution, but rather had reported it at least  
12 in part as having gone into land, buildings, and  
13 equipment like this, might this line then become a  
14 very important part of an audit?

15 A. What you're describing would be a significant issue.  
16 Then it would then be an organization that's essentially  
17 hiding a transaction, yes.

18 Q. Okay. Even in this line 57?

19 A. Yes. You could -- you could hide it -- if you were  
20 going to hide a transaction, the most logical place to do it  
21 would be in an innocuous place on the tax return, someplace  
22 that would receive less review by the IRS if you're asking me  
23 that.

24 Q. Do you occasionally see that in your  
25 audits?

1 A. Occasionally, yes.

2 MR. CARDANI: Thank you, Mr. Wooten.

3 THE COURT: Cross.

4 **CROSS-EXAMINATION**

5 BY MR. MATASAR:

6 Q. Mr. Wooten, I want to -- I wanted to  
7 start just with something Mr. Cardani asked you.  
8 Can I show you AHIF-2 and -3?

9 It was your testimony that the fact that  
10 there are multiple documents with different numbers  
11 would cause the IRS, would cause you, to initiate a  
12 criminal fraud investigation; is that your  
13 testimony?

14 A. No. I did not say it would initiate a criminal  
15 fraud investigation, but it would be an area of concern for  
16 us. And the fact that there are two documents here with --  
17 that are purporting to document the same transaction with  
18 different numbers and different signatures would be area -- an  
19 area of concern.

20 Q. Didn't you use the term "fraud  
21 investigation" with regard to this or just concern?

22 A. I -- I believe what I -- I may have said that it  
23 would lead to the possibility of a referral.

24 Q. Okay. Now, doesn't it matter to you how  
25 the IRS got the documents? For example, don't

1 businesses have multiple documents, draft  
2 documents, all the time? Isn't it a common  
3 practice in both a charity and a regular business  
4 to create a series of different documents as  
5 they're working on a transaction?

6 A. That's true. Normally, if there are draft  
7 documents, the draft documents would be unsigned documents.  
8 But there may be several --

9 Q. But they might be --

10 A. -- several draft versions, yes.

11 Q. And if a business gets a subpoena and  
12 keeps all of their copies of everything, and their  
13 attorney is asked to give all relevant documents,  
14 they very well might provide documents that  
15 apparently are inconsistent. But that still would  
16 be in something that would be provided. And it  
17 doesn't -- I mean, how is something like that if  
18 the documents come pursuant to a subpoena and  
19 provided by counsel, how would that possibly cause  
20 the IRS to look into a fraud investigation?

21 A. We're not talking about automatics here. We're not  
22 talking about these two documents would be handed to me as an  
23 IRS examiner and I would immediately say: Fraud.

24 However, this would lead me to the consideration of  
25 fraud. One of the batches of fraud is multiple documents for

1 example.

2 Q. How many audits have you done?

3 A. If you're looking for an exact number, I couldn't  
4 give you the exact number. Certainly hundreds of audits that  
5 I've done myself and supervised several hundred more.

6 Q. How many audits have you done to  
7 organizations that provide grants to foreign  
8 entities?

9 A. If I had to -- very difficult to come up with a  
10 number because many organizations provide some grants to  
11 foreign entities as part of their activities. Probably in the  
12 neighborhood of, say, 50 -- 50 organizations to a 100  
13 organizations.

14 Q. You've said that organizations under  
15 501(c)(3) must be operated exclusively for  
16 charitable purposes?

17 A. Section 501(c)(3) states that organizations must be  
18 organized and operated exclusively for exempt purposes.  
19 That's correct.

20 Q. Aren't there Treasury rules under that  
21 provision of the code that provide that the  
22 organizations must be operated primarily for  
23 charitable purposes?

24 A. That is true. There is a de minimus standard that  
25 has been set so that an organization would not, for example,



1 be revoked because they had a bookkeeper that stole \$500 from  
2 the organization and the organization brings in a hundred  
3 thousand dollars per year.

4 If there were -- if there were an absolute standard,  
5 then the organization could potentially be revoked for doing  
6 something like that. So it's -- some sort of de minimus  
7 standard had to be set.

8 Q. So the rule is de minimus, the word is  
9 not primarily. That's a mistake of mine that -- is  
10 there a Treasury rule that says "primarily"?

11 A. There is. The interpretation is -- is if it's more  
12 than de minimus it can still lead to revocation.

13 Q. You mentioned the term "expenditure  
14 responsibility"?

15 A. Yes.

16 Q. This is a term provided in section 4945  
17 of the Internal Revenue Code?

18 A. I believe that is one of the places that it states  
19 it.

20 Q. Isn't it true that that term is used for  
21 private foundations not public charities? The term  
22 "expenditure responsibility"?

23 A. Yes. But expend -- the term is also used  
24 generically with all examinations basically to have an  
25 organization show that it's met the record-keeping

1 requirements under 6033.

2 Q. I understand. But the term in the code  
3 is -- it specifically applies -- the technical term  
4 applies to private foundations. You're saying a  
5 more general description of your working use of the  
6 word is what you're talking about, not the  
7 technical version in the code?

8 A. Yes.

9 Q. What's -- you've indicated that the  
10 penalties for charities can go all the way up from  
11 a written advisory to a criminal prosecution?

12 A. That's correct.

13 Q. What's the penalty for filing -- or  
14 what's the typical result for filing an incomplete  
15 or inaccurate form 990?

16 A. There is no typical penalty. It all depends on what  
17 the situation is with the -- with the transaction that led to  
18 the inaccurate filing of the 990. For example, the IRS  
19 Service Center routinely sends out notices of incorrect  
20 returns to organizations. Quite often those penalties are  
21 abated when an organization sends in an explanation where, on  
22 an examination, we -- we have proposed all the way up through  
23 criminal penalties.

24 Q. Isn't there an Internal Revenue manual  
25 that provides for certain closing letters to be

1 issued in certain circumstances?

2 A. I believe there is, yes.

3 Q. And doesn't that provide that -- fail --  
4 that -- I'm sorry. That filing an incomplete or  
5 inaccurate form 990, the suggested result is a no  
6 change with written advisory letters? That that's  
7 what the rules say is appropriate in that  
8 circumstance?

9 A. That is a -- that is a situation where it is -- in a  
10 limited context, an organization fail -- fails to file the  
11 correct 990, for example. They do something like -- indicate  
12 an incorrect taxpayer identification number. That's probably  
13 the most common error. Don't properly file the return,  
14 improperly complete a schedule, a fairly minor item on the  
15 return.

16 Q. Are there written rules indicating where  
17 a more serious punishment should be imposed for  
18 filing an incomplete -- filing an incomplete or  
19 inaccurate form 990?

20 A. Are there written rules?

21 Q. Yes.

22 A. I don't believe -- if you're looking for a chart  
23 that says: If this is the violation, then this. If that is a  
24 violation, then that. No, I don't believe it.

25 Q. It's just up to the IRS? If you're

1 saying it's really bad, then something really bad  
2 happens?

3 A. Certainly if -- the more significant the violation,  
4 the more significant the penalty. Yes.

5 Q. Now, have you studied the actual e-mail  
6 chain between Mr. El-Fiki and al-Haramain?

7 A. No, I have not.

8 Q. You are aware -- let me show you 669.  
9 Can you read that? You've never seen that  
10 document?

11 A. I do not believe so. Let me --

12 Q. Why don't I give you a moment to read it.

13 A. Thank you. (Witness reads.) All right.

14 Q. Okay. So you see that -- if you look at  
15 paragraph one, he's transferring money from his  
16 account in London and he asks them if they have an  
17 account in London; right?

18 A. That's correct.

19 Q. Okay. Let me show you 670. And let's  
20 first enlarge the second paragraph: Concerning.

21 Okay. "Concerning to your inquiry -- or  
22 inquire about our bank account in London, sorry,  
23 brother, we don't have one there. Although we have  
24 account for Chechnya relief fund and if you wish  
25 you could make it with this."

1                   And if you go down to the bottom further  
2   down -- yeah.  Further.  "Our account -- they have  
3   an account in U.S.A."  Okay?

4	A. Okay.
---	----------

5 Q. And all the way down to the bottom. That  
6 -- okay. No. Sorry, further up. That's Jazak  
7 Allah Khair, the signer, is an al-Haramain official  
8 in Riyadh. I'll ask you to just assume that that  
9 is the case.

10 (Reporter inquiry.)

11 MR. MATASAR: I'll spell it for you here if we can get  
12 further down. It's J-A-Z-A-K, next word A-L-L-A-H, K-H-A-I-R.  
13 Al-Haramain Foundation.

14 Q. (By Mr. Matasar) And if we can look at  
15 671. And if we can go to: "In regard to our  
16 previous correspondence."

17                   And Mr. El-Fiki is telling al-Haramain  
18       Saudi: "In regard to our previous correspondence,  
19       I have the pleasure of informing you that I have  
20       already asked my bank in London to make a  
21       transaction to your U.S.A. account;" okay?

22 | A. Okay.

23 Q. So in that -- do you get from this e-mail  
24 chain that you just looked at that Mr. El-Fiki was  
25 intending to give your -- the money to the Saudi

1 organization? He asked them if they had an account  
2 in London, and they said: No, we have an account  
3 in the U.S., and he sends it to the U.S. account?

4 MR. CARDANI: Judge, I object. Excuse me. I object to  
5 him characterizing Mr. El-Fiki's intent. How can we know that?

6 THE COURT: Sustained.

7 MR. MATASAR: I'm just asking about the words on the --  
8 on the e-mail, your Honor. I don't mean to inject any --  
9 anything more than that.

10 Q. (By Mr. Matasar) I'm just asking you to  
11 consider the words on the e-mail chain. Does it  
12 not appear to you that the money from the donor was  
13 intended to go to al-Haramain Riyadh?

14 MR. CARDANI: I object to that as well.

15 THE COURT: Sustained.

16 Q. (By Mr. Matasar) You're aware -- well,  
17 isn't it true that the -- there must be a decision  
18 made somehow, somewhere by the IRS as to where a  
19 donation is given, okay? Who has to put it on  
20 their return; correct?

21 There are circumstances -- for example,  
22 United Way. United Way is a charity that funnels  
23 money to all sorts of different charities.  
24 Somebody might give money to United Way and then it  
25 goes from United Way to the American Cancer

1 Society, whatever. There are rules that have to do  
2 with when an organization has to report money as a  
3 contribution to that organization; correct?

4 A. That's correct.

5 Q. And you're familiar with the charges in  
6 this case are you not?

7 A. Yes.

8 Q. And you know the indictment specifically  
9 says: In February 2000, an individual in Egypt  
10 donated \$150,000 to al-Haramain Riyadh; correct?  
11 You've seen that in the indictment? That's in  
12 the --

13 MR. CARDANI: Judge, excuse me. The charging  
14 document's not relevant to this witness's testimony.

15 THE COURT: Sustained.

16 Q. (By Mr. Matasar) It was your testimony,  
17 was it not, that -- with -- let me ask this. Are  
18 you aware that an Egyptian gave \$150,000? That  
19 that's part of this case?

20 A. Yes.

21 Q. Okay. And do you have an opinion as to  
22 whether that \$150,000 should have gone on line one  
23 of the form 990 in the year 2000?

24 MR. CARDANI: I object. Without more facts, how is he  
25 to know?

1 MR. MATASAR: I can't -- I tried to give him the facts,  
2 your Honor, but I -- I would like to give him the e-mail chain.  
3 Those are the only facts we know.

4 MR. CARDANI: If he wants to ask a hypothetical, I  
5 guess I have no objection to that.

6 MR. MATASAR: Okay. I'll try that.

7 Q. (By Mr. Matasar) Assume -- assuming a  
8 wealthy Egyptian wants to give money as Zakat to  
9 widows and orphans in Chechnya, and assuming this  
10 wealthy Egyptian contacts people in Saudi Arabia at  
11 an organization called al-Haramain. They have an  
12 office in Riyadh. And assuming this wealthy  
13 Egyptian writes to them and says: I hear about  
14 this work you're doing with the Saudi committee and  
15 I want to give as Zakat -- you know what Zakat is?

16 A. Yes.

17 Q. I want to give as Zakat some money to  
18 you. I have an account in London and I want to  
19 give money, if you have one, to your account in  
20 London.

21 And further assume that the wealthy  
22 Egyptian is told by the Riyadh organization that:  
23 We don't have an account in London. If you want a  
24 western bank, we have an account in United States  
25 or you can send it to our account in Saudi Arabia.



1           Assuming further that the wealthy  
2 Egyptian then sends the money to the account in the  
3 United States. Assume further that all the  
4 transactions, all the e-mails, are between the  
5 Egyptian and the Saudi branch. Assume that there  
6 is nothing in the e-mails that indicates that there  
7 is any branch or office, anything in the United  
8 States other than a bank account, okay?

9           And so given all those assumptions -- and  
10 the money is sent to the account in the United  
11 States. And it turns out that there is an  
12 organization unknown to the donor.

13           And my question to you is does the United  
14 States organization put that money as a donation to  
15 itself on line one of its tax return?

16           A. I'm sorry. You just said there was no U.S.  
17 organization.

18           Q. No. I'm saying the donor does not know  
19 there's a U.S. organization. The donor in the  
20 hypothetical -- I'm giving you the hypothetical.  
21 The donor is told there's an account in the United  
22 States, okay? He's not told there's an  
23 organization in the U.S. He's looking for an  
24 account in London, he's told there's an account in  
25 the United States. So he sends it to the account

1 in the United States. That's what's in the donor's  
2 head.

3 And my question to you is if there's --  
4 if unknown to the donor, there's an actual  
5 organization in the United States, does the  
6 organization in the United States have to put that  
7 -- under Internal Revenue rules, have to put that  
8 \$150,000 that they got under that hypothetical as a  
9 contribution on line one of their form 990?

10 A. I would expect that, no, they would not put that as  
11 a contribution on line one of their 990 and would return it to  
12 the donor as some sort of erroneous transfer.

13 Q. Or could they not return it to the Saudi  
14 organization where the donor actually intended it  
15 to go? If they did that, would that be  
16 appropriate? Isn't there typically in the Internal  
17 Revenue Code pass-throughs or intermediaries?  
18 Isn't this -- aren't those common terms that are  
19 used in situations where money goes from one  
20 organization to another to another?

21 A. Well, what you're describing is not a pass-through  
22 or an intermediary, it's just an error. That these funds came  
23 into -- the account of an organization in the United States  
24 and was never intended to come into that.

25 So if the organization in the U.S. did anything with

1 those funds, they would simply correct the error. So this  
2 would not have anything to do with a pass-through.

3 Q. Okay. Well, correcting the error, could  
4 it not, couldn't it include sending the money where  
5 the donor intended it to go? Wouldn't that be one  
6 way that an organization might think -- it might  
7 not be the perfect way for you, but wouldn't that  
8 be one way that a legitimate organization might  
9 correct the error, by sending it where the money  
10 was intended to go?

11 A. Certainly there would be the possibility of  
12 transferring the funds, wire transferring them right back  
13 where they came from or wire transferring them to the ultimate  
14 recipient, yes.

15 Q. Does the Internal Revenue Code require  
16 that they be done by wire transfer?

17 A. No. But that would be the most efficient way to do  
18 it and that was the way the funds came in.

19 Q. Of course it would be the most efficient  
20 way. I'm asking you is it required by the Internal  
21 Revenue Code?

22 A. No.

23 Q. It's required that an organization that  
24 files a 990 file a schedule at line 22 for line 22,  
25 is it not?

1 A. A description of the activities?

2 Q. The grants and donations?

3 A. Oh, I'm sorry. Yes.

4 Q. Grants -- line 22?

5 A. Yes.

6 Q. Okay. Are you with me? Do you want us

7 to show you the return or --

8 A. Um, no.

9 Q. All right. There's a requirement that a  
10 schedule be filed?

11 A. Yes.

12 Q. And is that a yes?

13 A. Yes.

14 Q. And is it -- have you checked to see  
15 whether schedules were filed in this case; do you  
16 know?

17 A. I believe this organization did file a schedule,  
18 yes. Referring to the schedule B.

19 Q. Pardon?

20 A. Are you referring to the schedule B of this  
21 organization?

22 Q. I'm referring to -- well, let's put IRS-1  
23 on the screen. And line 22 -- I think it's page  
24 two. See it says: "Grants and allocations,  
25 attached schedule"?

1 A. Yes.

2 Q. Was a schedule attached, do you know?

3 A. I believe the schedule was attached.

4 Q. A schedule of grants and allocations?

5 A. I believe it was attached. It's been a while since  
6 I looked at it, but I don't remember there being a schedule  
7 missing.

8 Q. Is it common that there are errors in  
9 form 990s?

10 A. There are often errors in form 990s, yes.

11 Q. And it's a form that's regularly being  
12 changed and tweaked and improved upon; isn't that  
13 correct? Is that fair to say?

14 A. The form 990 is often being changed. There was --  
15 there was a large revision of the form recently. The basic  
16 information on the 990, similar to the schedule you're showing  
17 me here, has remained essentially the same for several years.

18 Q. By the way, is it a serious error not to  
19 file a schedule with line 22?

20 A. It is a -- it is an error that can lead to  
21 incomplete return penalties just as if an organization did not  
22 properly complete their 990.

23 Q. Do you have any statistics of how many --

24 A. No.

25 Q. -- organizations --

1           A.    No.  As an examiner, I don't -- I don't review or  
2 maintain statistics of that sort.

3           Q.    Right.  But you must read the numerous  
4 IRS publications.  You're a manager.

5                   By the way, what are -- what office are  
6 you in charge of?

7           A.    Seattle.  The Seattle office.

8           Q.    And that covers what part of the country?

9           A.    Washington, Oregon, Idaho, Alaska, and Hawaii.

10          Q.    But you're not familiar with the  
11 percentage, for example, of 990s that are filed  
12 without a schedule for line 22?

13          A.    I -- I have done some -- some basic research into  
14 percentage of errors on 990s, but as a group manager, I -- I  
15 don't really use those statistics.

16          Q.    It's a pretty huge number though, isn't  
17 it, for errors on form 990?

18          A.    It's a large -- there are --- there are a large  
19 number of errors on forms 990.  That's true.  The most common  
20 errors on form 990 have to do with by far individuals not  
21 signing tax returns, and individuals, for example, including  
22 incorrect taxpayer identification numbers, things that we  
23 would consider very minor errors, yes.

24          Q.    In the year 2000, were there any rules in  
25 the Internal Revenue Code that prohibited aid to

1 Chechnya?

2 A. In the Internal Revenue Code? No. The Internal  
3 Revenue Code doesn't have specific rules.

4 Q. And how about anywhere in the IRS rules  
5 or regulations that prohibited aid to Chechnya in  
6 the year 2000?

7 A. Not that I am aware of.

8 Q. Was there anything in the Internal  
9 Revenue Code, IRS rules or regulations that would  
10 have prohibited aid to the mujahideen in Chechnya  
11 in the year 2000?

12 A. I don't believe there was anything specific in the  
13 IRS rules or regulations that stated that, no.

14 Q. Isn't it true, Mr. Wooten, that at the  
15 time of this return, October 16th, 2001, there was  
16 no requirement as far as real specificity on lines  
17 -- describing where grants went on line 22?

18 A. Describing where grants --

19 Q. Yeah.

20 A. When you say where grants went --

21 Q. Where the money went?

22 A. As in a specific country, as in a specific --

23 Q. Just --

24 A. -- individual?

25 Q. General purposes. Couldn't you say

1 something as simple as nursing services? Couldn't  
2 you say something as similar -- simple as  
3 fellowships? Just a really broad description and  
4 that would spec -- would satisfy line 22?

5 A. I believe the instructions for the 990 for that  
6 period asked for a little bit more detail than that.

7 Q. Okay. Let me show you then the -- I  
8 guess we'll give this our next number. I'll just  
9 show it to the witness. Can you first describe  
10 that document?

11 A. This is the instructions for the 2000 form 990 and  
12 990-EZ.

13 Q. Okay. In what year?

14 A. In 2000.

15 Q. Could you read the second paragraph on  
16 the attached schedule -- section on page 21 which  
17 talks about classifying activities?

18 A. Page 21?

19 Q. Page 21, far right column, the heading is  
20 called: Attached schedule. And the second  
21 paragraph as far as how to classify activities.  
22 The sentence starts: "On the schedule."

23 A. You said the far right column? Sorry.

24 Q. Yes.

25 A. "On the schedule, classify activities in more detail



1 than in such broad terms as charitable, educational, religious  
2 or scientific, for example, identified payments for nursing  
3 services, laboratory construction or fellowships."

4 Q. So would you take it from that, that that  
5 sort of identification is sufficient?

6 A. This is asking not to use broad classifications but  
7 to provide details is the way I interpret this.

8 Q. Well, don't you interpret it that you  
9 shouldn't use broad terms as charitable,  
10 educational, religious or scientific, instead you  
11 should use terms -- you should identify payments  
12 for things like nursing services, laboratory  
13 construction or fellowships. Would you agree that  
14 those latter three terms are more specific than  
15 charitable, educational or religious?

16 A. Yes. There are a couple of examples that are a  
17 little more specific than charitable, educational or  
18 religious.

19 Q. Well, I'm sure Mr. Cardani's going to ask  
20 you. Where are those examples?

21 A. I'm sorry?

22 Q. You said there were examples on here that  
23 said -- that are more specific than nursing  
24 services, laboratory--

25 A. No, no. I'm saying that those terms are a little

1 more specific than the general --

2 Q. Okay. All right.

3 A. -- classifications.

4 Q. Okay. You're familiar with IRS

5 announcements, are you not?

6 A. I have access to IRS announcements, yes.

7 Q. And isn't it fair to say that after 9/11,

8 there was a need to make -- there was -- not a

9 need, but there was an effort made by the IRS to

10 require charities to be more specific?

11 A. That was, I believe -- if you're asking what I think

12 you're asking, I believe that was part of the effort to

13 redesign the 990 form.

14 Q. All right. Well, let me just show you

15 another document here. I'm sorry.

16 A. (Witness reads.)

17 Q. And look at page three on foreign grants.

18 And at this time there was very little specificity

19 required; is that correct?

20 A. Referring to the document that you just handed me?

21 Q. Well, let me ask -- ask you particular

22 things. It says in the second paragraph -- it

23 talks about the form 990, the second paragraph in

24 foreign grants, does it not? And it talks about

25 the schedule for line twenty -- it talks about line

1 22 which it doesn't seem to change, and line 23  
2 which is grants to an individual.

3 And doesn't it say the attached schedule  
4 for this line does not identify individual  
5 recipients, instead payments are identified by  
6 class of activity, e.g., clothing for disaster  
7 victims. Foreign grants are not identified  
8 separately on this attachment.

9 So at that time you could file an  
10 appropriate 990, could you not, that would not have  
11 to be any more specific than saying aid to  
12 refugees, clothing for disaster victims, that sort  
13 of thing?

14 A. It would be a return that would have been accepted  
15 by the service center, yes.

16 Q. Correct.

17 MR. MATASAR: Thank you. No further questions.

18 MR. CARDANI: May I, judge?

19 **REDIRECT EXAMINATION**

20 BY MR. CARDANI:

21 Q. Mr. Wooten, let's just start with that  
22 last part first. Keep that document in front of  
23 you.

24 A. Okay.

25 Q. This is an announcement given to you by

1 Mr. Matasar of some potential changes in the 990.

2 And referring to that same page -- are you still  
3 with that foreign grants?

4 A. Yes.

5 Q. You're with me?

6 A. Yes.

7 Q. Okay. And he referred you to paragraph  
8 two with respect to changes on the form 990 and  
9 line 22?

10 A. Okay.

11 Q. We didn't cover paragraph one. Could you  
12 read paragraph one out loud please?

13 A. It says: "Since the events of September 11th, 2001,  
14 concern has been expressed that purportedly charitable  
15 organizations may be transferring funds outside of the United  
16 States to organizations or individuals suspected of supporting  
17 terrorist activities."

18 Q. Okay. And is that part of the reason  
19 this form was modified?

20 A. Was that part of the reason that the 990 was  
21 modified?

22 Q. Yes.

23 A. I'm sure that it was something that was on the table  
24 along with several other items, but there's been a -- a  
25 revision to the 990 in the works for several years.

1 Q. Well, go down to paragraph three then.

2 A. Uh-huh.

3 Q. "We would like comments addressing what  
4 further steps, if any, the service should take to  
5 more effectively identify on form 990 transactions  
6 that present the risk of the diversion of  
7 charitable funds, including the following. Should  
8 domestic charities conducting foreign activities be  
9 required to provide more specific information about  
10 the flow of funds involved in these activities or  
11 about the recipient of these funds as one example?"  
12 Is that there?

13 A. Yes.

14 Q. If you could put that down for a minute.  
15 Now, Mr. Matasar gave you a fairly long  
16 hypothetical and let me just give you another  
17 hypothetical. Okay?

18 Assume there's a wealthy Egyptian  
19 individual who wants to donate money to the  
20 Chechnyan mujahideen to support a fight in  
21 Chechnya, and knows that there's an operation in  
22 Saudi Arabia, and there's an office in Ashland,  
23 Oregon, and decides to send the money from an  
24 account that he has overseas to the United States  
25 rather than to Saudi Arabia to conceal the

1 transaction from the Egyptian government.

2 Assume that the money gets sent to the  
3 Oregon account and it doesn't automatically just  
4 get wired right back to the Saudi Arabian account.

5 You talked about a mistake. Is that what  
6 you'd expect if it was a mistake, you'd send it  
7 right back or to the organization?

8 A. Yes.

9 Q. But instead the money stays in the United  
10 States for about three weeks during which time your  
11 exempt organization head, the head of the 501(c)(3)  
12 in the United States, takes -- attempts to use that  
13 money and to do things with it on his own but  
14 fails.

15 And then a representative from an  
16 organization overseas who is involved as well, the  
17 parent organization, spends thousands of dollars  
18 flying across to the United States, and goes to the  
19 bank and retrieves this same money in the form of  
20 traveler's checks paying an additional \$1,300 of  
21 the local charity's money, the 501(c)(3)'s money.  
22 Okay?

23 A. Uh-huh.

24 Q. And also gets the rest of the money in  
25 the form of a cashier's check, not in the amount of

1 \$20,000 but \$21,000. So an additional \$1,000 of  
2 the local charity, the 501(c)(3)'s charity?

3 MR. MATASAR: Objection, your Honor, I think this is  
4 argument not a hypothetical question.

5 THE COURT: It's similar to your hypothetical. Go  
6 ahead.

7 MR. MATASAR: Mine was based on --

8 THE COURT: Counsel, overruled.

9 MR. MATASAR: Sorry.

10 Q. (By Mr. Cardani) And further assume that  
11 the 21,000 included 20,000 of the donation but also  
12 an additional \$1,000 kicker from the 501(c)(3).  
13 Okay? And all of that money is then taken out of  
14 the United States without control forms being filed  
15 to report the transaction of the -- the  
16 transportation of the cash out of the United  
17 States. And then it makes its way to Saudi Arabia  
18 and ends up being involved -- reduced to cash.

19 Would you expect that transaction to show  
20 up on the local 990?

21 A. In your example, it sounds like the local  
22 organization exercised some control over the funds as if it  
23 was in fact their funds. So then in that circumstance, I  
24 would expect that to show up on the 990.

25 But beyond that, obviously as an auditor, I would

1 have some problems with several aspects of that transaction.

2 Q. And are you familiar with the concept of  
3 money laundering?

4 A. Yes, I am.

5 Q. Do you ever run across any organization  
6 in your work that engages in attempts to launder  
7 money outside the United States?

8 A. I've run into organizations that have -- immediately  
9 I can think of laundering money within the United States and,  
10 yeah, I do know of at least one case I can think of  
11 immediately outside the United States.

12 Q. All right. And does that cause your  
13 organization some concerns if, during an audit, you  
14 find that charitable organizations involved money  
15 laundering?

16 A. Yes. Definitely.

17 Q. Might that refer -- end up in a criminal  
18 referral?

19 A. Absolutely.

20 MR. CARDANI: That's all I have.

21 THE COURT: Anything further?

22 MR. MATASAR: Nothing further.

23 THE COURT: You may step down. Thank you.

24 THE WITNESS: Thank you.

25 THE COURT: Let's go ahead and take a few minute break,



1 jurors.

2 (Jury exits courtroom.)

3 (A short recess was held)

4 THE COURT: Thank you. Be seated.

5 (Jury present.)

6 THE COURT: Your next witness.

7 MR. CARDANI: Judge, the government's final witness,  
8 we'd call Colleen Anderson.

9 THE CLERK: Please raise your right hand.

10 (The witness was sworn.)

11 THE COURT: Please have a seat.

12 THE WITNESS: Thank you.

13 THE CLERK: Please state your full name then spell your  
14 name for the record.

15 THE WITNESS: Colleen M. Anderson. C-O-L-L-E-E-N,  
16 A-N-D-E-R-S-O-N.

17 **DIRECT EXAMINATION**

18 BY MR. CARDANI:

19 Q. You're a special agent with the Internal  
20 Revenue Service?

21 A. I am.

22 Q. Criminal investigator?

23 A. Criminal Investigation Division, yes.

24 Q. All right. How long have you been a  
25 criminal investigator with the IRS?

1 A. It will be 15 years in December.

2 Q. Tell us a little bit about your education  
3 before you joined the IRS.

4 A. I have an accounting degree from Chico State  
5 University.

6 Q. And then you went right to the IRS?

7 A. Well, actually, after the -- after I obtained my  
8 bachelor's degree in accounting, then I did, hm, approximately  
9 nine months as an auditor from the district attorney's office  
10 in northern California for the Child Support Enforcement  
11 Division.

12 Q. Then you joined the IRS?

13 A. Then I did, yes.

14 Q. Okay. And you've been here throughout  
15 the trial as what we call the case agent?

16 A. Yes.

17 Q. You're familiar with much of the evidence  
18 that's been accumulated in this case?

19 A. I am.

20 Q. Taking you back to 2004, Agent Anderson,  
21 were you present at the search warrant of 3800 in  
22 Ashland?

23 A. Yes, I was.

24 Q. The al-Haramain building?

25 A. Yes.

1 Q. And did you have some involvement in the  
2 evidence as it was being seized, especially with  
3 the computers?

4 A. Yes, I did. If there were any questions regarding  
5 any particular piece of evidence that the seizing officer  
6 wanted to ask me about then Linda Czemerys, the special agent  
7 that was the seizing officer, would ask and confer with me on  
8 whether or not I thought it was appropriate to seize.

9 Q. Is it fair to say that the main aspect,  
10 the main part of the search warrant seizure,  
11 involved computer hard drives from that location?

12 A. Yes. As far as the number of items that were  
13 seized, by far the greatest quantity came from the seizure of  
14 the hard drives or the computers themselves, yes.

15 Q. Now, did you have a local computer guy?  
16 They call them CISOs?

17 A. Yes. We had a local computer forensics guy come out  
18 from Bend to help us take the computers and then he took them  
19 back to his location to image the drives.

20 Q. All right. And that was done by -- who  
21 is this individual?

22 A. I'm sorry. That would be Special Agent Richard  
23 Smith.

24 Q. All right. Did you work with Mr. Smith  
25 then in attempting to analyze the contents of the

1 computer that were found at 3800?

2 A. Yes. Once a computer specialist gets the computers  
3 and they image the drives, then they do their processes. I'm  
4 not a computer person so I don't know exactly what they do.  
5 But once they process them, they attempt to make the  
6 information available to the agents to review to look for  
7 items within the scope of the warrant.

8 Q. You worked with Agent Smith to do this  
9 over time?

10 A. Yes. I attempted to work with Agent Smith to do  
11 this over time. It became apparent pretty quickly in the  
12 process that there were some issues with the drives. We  
13 weren't getting the amount and types of information that I  
14 would expect from that many computers. Yes.

15 Q. So did that cause you to reach out to  
16 somebody else or a different unit within IRS to get  
17 some help digging into the computers?

18 A. Yes. I had asked Special Agent Smith basically who  
19 he went to to ask his more technical questions, and since it  
20 appeared that we were having a hard time getting the  
21 information that I thought should be on the drive -- for  
22 instance, e-mail. I found it very hard to believe that Agent  
23 Smith wasn't able to retrieve some e-mail off these computers  
24 because, you know, e-mail is on most computers these days.

25 So I asked him who he goes to to ask his questions

1 to and he referred me to Jeremy Christianson. And I reached  
2 out to him for some help with the computers.

3 Q. And so over -- did you -- were the drives  
4 sent to then Mr. Christianson?

5 A. Yes. I asked Agent Smith to send the drives, the  
6 relevant drives, to Agent Christianson to process and analyze.

7 Q. And did you work with him over a period  
8 of time? Was this a lengthy process?

9 A. Yes. It was quite a lengthy process. Once  
10 Mr. Christianson got the computer drives and he processed them  
11 and he would let me know what was there, I told him directly  
12 that I expect that there should be some e-mail in the system.  
13 And he then went out and did his technical work to find the  
14 mailboxes, the e-mail mailboxes that were missing, and my  
15 understanding is he did what he needed to do to recover them,  
16 repair them, and then get them into a process that I could  
17 then review.

18 Q. Okay. So his goal was more like a  
19 technician to reconstruct, wherever he could, the  
20 items that you were looking for?

21 A. Yes.

22 Q. And was that at least partially  
23 successful?

24 A. Yes. I believe it was partially successful. He  
25 retrieved --

1 MR. WAX: Your Honor, I'm going to object. We heard  
2 from Mr. Christianson.

3 MR. CARDANI: Just by way of background. We didn't get  
4 it all.

5 THE COURT: I'll let her answer this question. Go  
6 ahead.

7 THE WITNESS: Yes. I believe that it was successful in  
8 that he retrieved one major mailbox that we did not have prior to  
9 that. And he was able to repair it and get it into a format that  
10 I could -- I could search.

11 Q. (By Mr. Cardani) All right. And so did  
12 he then take his work and send it out to you in a  
13 way that you could then continue your  
14 investigation?

15 A. Yes. What he did for me is basically he took the  
16 information from the drives that he was able to obtain and  
17 repair and basically fix. He put them on a laptop for me and  
18 installed a program that allowed me to search the drives based  
19 on specific search terms that I felt were relevant that we'd  
20 put in. And I'd put the search term in, and then certain  
21 documents would pop up with those search terms in it, and I'd  
22 review them.

23 Q. And if you found something particularly  
24 pertinent, would Agent Christian -- Christianson be  
25 able to help you identify forensically which drives

1 those came from and the history behind certain  
2 e-mails?

3 A. Yes. In fact, when I would find a document, I felt  
4 that it was very important to bring it to Mr. Christianson's  
5 attention because, again, he's a computer specialist and I  
6 relied on his computer knowledge to help me figure out, okay,  
7 if I found this particular e-mail, is there more e-mails  
8 within that e-mail chain? And where was this found, which  
9 drive, and that type of thing.

10 Q. Was this a long process?

11 A. It was a very long process, yes.

12 Q. Months?

13 A. Years.

14 Q. Years. Okay. Now, you mentioned search  
15 terms. So when you got the product from Agent  
16 Anderson -- Agent Christianson, you used search  
17 terms to try to find things that were in the  
18 computers that may be pertinent to your  
19 investigation?

20 A. Yes, I did.

21 Q. Give us some examples of those type of  
22 search terms that you used.

23 A. Okay. I felt the relevant search terms to use to  
24 search the computers were search terms like: Chechnya, the  
25 defendant's name, both his last name, his Muslim name,

1 Yunus -- you know, Abu Yunus, things like that. AU, refugees,  
2 Soliman, money, mujahideen, terms like that.

3 Q. Did you end up retrieving a large amount  
4 of information that was responsive to some of your  
5 search terms?

6 A. Yes. There was large volumes of information that I  
7 had to comb through with these search terms. And, again, just  
8 because I would use one search term, there's various different  
9 ways to spell Chechnya and things like that. So those search  
10 terms would then evolve into variations and that kind of  
11 thing. So it just kept growing and growing and growing, and  
12 it took quite a substantial amount of time.

13 Q. Okay. So, incidentally, these computer  
14 hard drives that you worked off of getting this  
15 information are the same ones -- exact copies of  
16 those were provided to the defense long ago; is  
17 that right?

18 A. Yes. That's correct.

19 Q. Now, there's been a reference to lots of  
20 exhibits, in here and several of them start with  
21 the letters SW. Why is that?

22 A. Let's see. The SW exhibits, at least the ones I  
23 have on JC-4, those are the various items that I collected  
24 from my searches off the computers. So there are other SW  
25 documents, however, the ones that came from the computers I



1 collected and put on JC-4.

2 Q. Working with Agent Christianson as -- in  
3 terms of finding out where they came from and all  
4 of that?

5 A. Yes. That's correct.

6 Q. Now, we've selected -- I'm sorry. There  
7 have been several search warrant-related computer  
8 exhibits that we're going to get into now. Have  
9 you attempted, in preparing for your testimony  
10 today, to kind of put those -- put them into some  
11 rough chronological format to walk through your  
12 testimony leading up to the El-Fiki money being  
13 transferred to Ashland?

14 A. Yes. And I should probably clarify. The items on  
15 JC-4, the ones that I'm referring to to testify today, these  
16 are a small portion of the total e-mails that I reviewed.  
17 What I did is I tried to take a sampling of different types of  
18 things like e-mails, word documents, web pages that  
19 Mr. Christianson was able to pull up which showed Internet  
20 activity. And what I did was I took what I thought were  
21 relevant documents and e-mails and web pages from the time  
22 period of about January 2000, through when the El-Fiki money  
23 came up, to about the time of the filing of the 2000 tax  
24 return.

25 Q. Okay. So you tried to stick relatively

1 within parameters to help refine the amount of  
2 information that we were putting before the jury?

3 A. Yes.

4 Q. Okay. But is it true that these SW  
5 computer exhibits represent a fraction of the  
6 overall amount of information that were found in  
7 the al-Haramain computers?

8 A. Oh, absolutely. As far as some of -- like, for  
9 instance, the Sheeshaan e-mails that have been shown, there  
10 were hundreds and hundreds of those. And I had to -- I  
11 basically combed through those and picked what I hoped to be  
12 representation samples of what was there. So --

13 Q. Okay. So let's start with SW-5 and go  
14 back to the screens. SW-5 is the first one that I  
15 want you to look at. And you can use your touch  
16 screen if you want but walk the jury through SW-5.

17 A. Okay. I'm sorry. I might get away from the mike.  
18 Let me know.

19 This is an e-mail from Abdul Qaadir Abdul Khaliq to  
20 q@qf.org and it's an ad for Chechnyan relief.

21 Q. Now, stop there for a second. Is that  
22 the fellow who's depicted in the bottom right hand  
23 of the chart before the jury?

24 A. Yes, it is. The bottom right hand is Abdul Qaadir  
25 Abdul Khaliq.

1 Q. And is he the one who's been identified  
2 as the author or at least the sender of these  
3 Sheeshaan e-mails involving the Chechnyan  
4 mujahideen?

5 A. Yes. Mr. Abdul Qaadir Abdul Khaliq is the author of  
6 the Sheeshaan e-mails and he is -- he calls himself the online  
7 news editor for the al-Haramain online website also.

8 Q. Now, the ones we're getting into right  
9 now, do these have the Sheeshaan -- is it your  
10 understanding -- did the Sheeshaan e-mail group  
11 exist at this point or were these before it?

12 A. I believe this is before the Sheeshaan e-mails began  
13 going out.

14 Q. Okay. So what do we see depicted in this  
15 January 4th e-mail from Mr. Abdul Qaadir? Oh, is  
16 it true that most of these came out of Seda-Eight?

17 A. Yes.

18 Q. Okay.

19 A. Yes, it is.

20 Q. And to never -- if the jury wants to  
21 verify that, they have the Exhibit JC-4?

22 A. Yes. On the Exhibit JC-4, I am looking at the first  
23 item which is SW-5 which is the e-mail that we were just  
24 discussing.

25 Q. Okay. And it's up on the screen, but

1 that's a -- in the right-hand side there, that's  
2 the chronological fashion that we've put these  
3 things together. So they can have some help if  
4 they want to look at these and see where they came  
5 from. But we see that most of these came out of  
6 Seda-Eight, the whole first page and then -- on and  
7 on --

8 A. Yes. This is correct.

9 Q. -- with a few exceptions? Okay. So  
10 getting back to SW-5, we have Mr. Abdul Qadir  
11 doing what here?

12 A. He's sending the Chechnyan Relief Fund document to  
13 q@qf.org which is an e-mail address associated with the  
14 defendant.

15 Q. Okay. And let's look at that -- that  
16 attachment. Is it your understanding this was  
17 promoted on the al-Haramain website later?

18 A. Yes, it was.

19 Q. Okay. And there's a reference both to  
20 the Riyadh version of al-Haramain at the top?

21 A. Yes.

22 Q. And then it talks about the Chechnyan  
23 relief fund, you see that?

24 A. Yes.

25 Q. And then down below there's a reference

1 to what?

2 A. There's a reference to the al-Haramain Educational  
3 Center in Ashland. They give the e-mail address, and the fact  
4 that it's in Ashland, Oregon, some phone numbers, and that  
5 kind of information.

6 Q. Okay. And so this went over al-Haramain  
7 -- it was published on al-Haramain.org later on?

8 A. Yes.

9 Q. Okay. And then if a contributor or a  
10 donor wanted to give money to support this, they  
11 could send their money to al-Haramain either here  
12 in Oregon or to al-Haramain at the al-Rajhi Bank in  
13 Saudi Arabia?

14 A. Yes.

15 Q. Okay. If we could move on to SW-6.  
16 Dated the same day, Tuesday, January 4th, what is  
17 this?

18 A. This is an e-mail from Soliman Al-But'he to the  
19 Ashland al-Haramain office with a CC to the defendant at  
20 p@qf.org.

21 Q. Okay. And is the attached the ad for  
22 Chechnyan relief fund -- you've seen that. Is it  
23 the same one that we've seen -- that we saw on the  
24 previous exhibit?

25 A. Yes.

1 Q. So the defendant's receiving this from  
2 two different sources now then on the same day?

3 A. Yes, he is.

4 Q. And this one's from Mr. Al-But'he?

5 A. Yes.

6 Q. Okay. SW-7. All right. The next day.  
7 What do we have here?

8 A. This is an e-mail from, again, Abdul Qaadir to  
9 undisclosed recipient list. And the subject is: Editor's  
10 word 32. Do you want me to describe the e-mail?

11 Q. No. What's the -- what's the import of  
12 this? What's the -- is there a reference to the  
13 al-Haramain online newsletter here?

14 A. Yes. Mr. Abdul Qaadir Abdul Khaliq calls himself  
15 the online news editor for the al-Haramain website, and he is  
16 stating that there is a new article coming out in the new --  
17 in the new issue. And this is going to wet your whistle  
18 basically as to what you're going to see in that issue.

19 Q. And a reference to the al-Haramain.org  
20 website?

21 A. Yes.

22 Q. Okay. If we could go to page two of  
23 that. And down towards the bottom, this went out  
24 -- this was actually published on the al-Haramain  
25 website?

1 A. Yes, it was.

2 Q. Okay. And we see -- talking about down  
3 here: "Aid our mujahideen brothers in Chechnya.  
4 Unify their rows. Gather them on word of truth.  
5 Oh, Allah. Aim their firing and strengthen their  
6 determination," and so on and so forth. You  
7 recognize that?

8 A. Yes, I do.

9 Q. Okay. All right. In the paragraph up  
10 above, we don't need to read it, but it talks in  
11 similar fashion; is that right?

12 A. Yes. Yes, it does.

13 MR. WAX: Your Honor, excuse me. I'm going to object  
14 to this line of testimony. The government went through all of  
15 these with Mr. Christianson and I think that this is repetitive.

16 MR. CARDANI: I'll try to go through it pretty quick on  
17 the ones that we've covered, Judge, but I think putting them in  
18 this fashion helps prove a different point.

19 THE COURT: All right. Just be quick about it.

20 Q. (By Mr. Cardani) SW-8. All right.  
21 Eight days later, what happened here?

22 A. This -- this is an e-mail, again from Abdul Qaadir,  
23 to undisclosed recipient. And it is news from the mujahideen.  
24 And then with this is attached photos of Russians killed and  
25 -- looks like other military type information.

1 Q. Okay. And there are coming out from  
2 Abdul Qaadir into the al-Haramain computers now.  
3 We've seen this before, but there are a series of  
4 pictures depicting acts of war; is that right?

5 A. Yes.

6 Q. Now, this came about a week after those  
7 Chechen relief fund e-mails came out?

8 A. Yes. Yes, they did. About a week after that but  
9 yet still before the El-Fiki money comes.

10 Q. Okay. SW-10. Why did you -- this is one  
11 I don't think the jury has heard about. Thursday,  
12 January 20th, 2000, from Abdul Qaadir. Why is this  
13 significant, Agent Anderson?

14 MR. WAX: Excuse me, your Honor. I'm going to object  
15 to why it's significant. I believe the witness can testify to  
16 the content but not offer any opinion.

17 THE COURT: Sustained.

18 MR. WAX: Thank you.

19 Q. (By Mr. Cardani) Okay. Please tell us  
20 why you selected this one?

21 MR. WAX: Again, objection, your Honor.

22 THE COURT: Overruled.

23 THE WITNESS: Okay. I selected this particular e-mail  
24 because this is what appears -- this basically states that this  
25 is the start of an e-group. And he's telling the persons that



1 he's e-mailing that if you do not want to receive this particular  
2 e-mail group or e-listing, all you have to do is send him back an  
3 e-mail saying: Please remove me from the e-group.

4 Q. (By Mr. Cardani) And that last line  
5 there: Darned?

6 A. Oh. "Darned if I want to be accused of spamming and  
7 annoying people," yes.

8 Q. Okay. And it goes on: "As you know, I  
9 regularly send out reports about the Chechen  
10 mujahideen and occasionally forward other articles  
11 of interest, however, if you do not want to receive  
12 these mailings, I will not force them on you."

13 A. Yes.

14 Q. SW-11. Okay. January 22nd, the jury's  
15 heard a lot about this. We won't go into it. But  
16 is this "what support" e-mail involving -- well,  
17 what is this? Why did you select this?

18 A. This is the "what support" e-mail that  
19 Mr. Christianson had talked about. I picked this one because,  
20 one, it's within my time period that I -- that I had specified  
21 as being important. It's about a month before the funds  
22 actually came in. A month before the funds from Mr. El-Fiki  
23 comes in. And there were several different items on the  
24 computer that had the same information, including this e-mail.  
25 There was also a Word document. And I believe there was a Web

1 page also.

2 Q. Before we leave this one, what about the  
3 from section of this?

4 A. Yes. It is from p@qf.org to Al-But'he, and p@qf.org  
5 is an e-mail address associated with the defendant.

6 Q. And the subject line of "what support"  
7 would have come from the sender?

8 A. Yes. It would have.

9 Q. SW-12, two days later. Why this one?

10 A. Again, it's within my time frame, and I believe that  
11 there is some discussion -- yes, there is. There's some  
12 discussion in this e-mail regarding how to send donations to  
13 the Muslims in Chechnya. So I felt that was relevant.

14 Q. And then if we could go to the second  
15 page of that, question three down below. Is that  
16 part of what you're referring to here?

17 A. Yes.

18 Q. And then the next page under D?

19 A. Yes. "By collecting as much money as possible from  
20 friends, families, relatives, and contacts, and mosque centers  
21 everywhere." Yeah.

22 Q. Okay. And E?

23 A. Yes. Specifically this talks about if you know  
24 anybody from reputable aid organizations to inform them about  
25 the mujahideen needing help and doctors.

1 Q. SW-13, the same day?

2 A. Yes, it is.

3 Q. Okay. And why did you select this one?

4 A. Let's see.

5 MR. WAX: Your Honor, I'm going to ask for a continuing  
6 objection to the "why did you select" question.

7 THE COURT: You may have it.

8 MR. WAX: Thank you.

9 THE WITNESS: Okay. I believe -- I'm going to double  
10 check this. I believe this may be the first e-mail from the  
11 Sheeshaan group. Let me check something. Yes. I believe it's  
12 the -- one of the first e-mails anyway from the Sheeshaan group.

13 Q. (By Mr. Cardani) Okay. And, again, from  
14 Seda-Eight: "I have created this e-mail group to  
15 more easily facilitate getting a much-read and  
16 sought after e-mails that bring information from  
17 the Chechen mujahideen website to all those who  
18 have requested it."

19 A. Yes. So this is, again, I believe the first  
20 Sheeshaan e-group. So now you can get an idea of what the  
21 e-group is going to be talking about.

22 Q. If we could scroll down just a little bit  
23 before we leave this one. Down here. "To post a  
24 message, send it to Sheeshaan@egroups.com. And  
25 then to unsubscribe, send a blank message."

1 A. Yes. Again, I believe in most of the Sheeshaan, if  
2 not all of them, they give you the option of unsubscribing.

3 Q. SW-14, again, the same date,  
4 January 24th. The jury has seen this quite a bit.  
5 I won't spend much time on it. But can you  
6 identify this one?

7 A. Yes. This is a -- I believe it's another interview  
8 with Ibn-ul-Khattab who is the foreign mujahideen leader in  
9 Chechnya. And if we could go down further --

10 Q. Go down to question four on page two.  
11 I'm not sure if you want to talk about something  
12 else.

13 A. Yes. This is what interests me here is they're --  
14 they're asking for funding and that sort of thing. So this is  
15 why I picked this one.

16 Q. And they talk about down here: "Most of  
17 our weapons are either captured or purchased from  
18 the Russian military"?

19 A. Yes.

20 Q. "And defeated army is willing to sell all  
21 of Russia for money." And you were focusing on the  
22 recruitment of money in e-mails like this?

23 A. Yes, I was.

24 Q. SW-16, moving ahead to February 5th.  
25 And, again, when was the El-Fiki money actually

1 received here in Oregon?

2 A. February 24th.

3 Q. So 19 days before that did this come into  
4 the al-Haramain computers?

5 A. Yes, it did.

6 Q. And what is it?

7 A. It is another Sheeshaan e-mail. Looks like a photo  
8 library of different photos. Yeah. Basically it's --

9 Q. It talks about being the first of a  
10 series of four mailings that are a sample of photos  
11 from website. And be forewarned, not for faint  
12 hearted. And then did there -- was there a number  
13 of photos attached to this e-mail?

14 A. Yes. Yes, there were. And I believe that we only  
15 -- I only exhibited this particular one but reviewed the other  
16 four.

17 Q. Okay. And is this representative of  
18 those others and many others found in the  
19 computers?

20 A. Yes.

21 Q. And some of the pictures that we're about  
22 to show are fairly graphic, but are these also  
23 representative of the ones you chose to put in  
24 here?

25 A. Yes.

1 Q. Okay. If you could scroll through them.

2 And -- okay. If we could go back to page  
3 three. And they talk about -- there's some  
4 commentary here on the right side. "Dead Russian  
5 special forces who bombed innocent civilians"?

6 A. Yes.

7 Q. And then down below --

8 MR. WAX: Judge, I'm going to object. This has nothing  
9 to do with my client. There's been testimony about this war.  
10 This is unduly prejudicial.

11 THE COURT: Thank you. Overruled.

12 Q. (By Mr. Cardani) And then the commentary  
13 on this one here: "Russian special force humbled  
14 by the mujahideen."

15 A. Yes.

16 Q. All right. And then, once again, this  
17 was found in the computers from Ashland, Oregon?

18 A. Yes, it was.

19 Q. In the deleted sections of Seda-Eight?

20 A. Yes.

21 Q. Moving on to SW-55, this isn't the same  
22 format so tell us what this is?

23 A. Oh, yes. This is a Web page from azzam.com, jihad  
24 Chechnya site, and it's requesting Russian translators.

25 Q. And there's a reference to other sites

1 that have been brought up here, qoqaz.net?

2 A. Right. When I saw web pages like this, it became  
3 apparent that qoqaz had different web sites for different  
4 languages. And I think I saw, you know, Russian, French --  
5 there might have even been Spanish, that kind of thing in  
6 there.

7 Q. If you could scroll down a little bit.  
8 Somewhere in there I have in my notes that there  
9 was talk about the site going down. Do you see  
10 that? Do you see that there?

11 A. Ah, yes. At the top of what's been isolated here.

12 Q. Do you see that announcement?

13 A. Announcement. Okay.

14 Q. February 20th of 2000?

15 A. Yes. It's stating that there are attempts being  
16 made to shut down the site. And if it's shut down, basically  
17 just keep checking back.

18 Q. All right. Moving on to SW-20. Okay.  
19 What is this?

20 A. Oh, sorry. Oh, yes. This is an e-mail from the  
21 defendant at the Arborist.com to azzam2000@e-mail.com which is  
22 the e-mail address associated with Azzam Publications.

23 Q. What about that e-mail up top, the e-mail  
24 address?

25 A. Yes. That -- that e-mail address is associated with

1 the defendant at the Arborist business.

2 Q. Oh, I'm sorry. Sorry about that. Okay.

3 So going to that Azzam site?

4 A. Yes. And then at the bottom of it I noted that it  
5 is basically signed AU which is -- stands for Abu Yunus.

6 Q. Okay. SW-18. All right. We have  
7 another -- okay. What do we have here?

8 A. Again, I tried to do a representational sample, so  
9 this is another e-mail back to Azzam Publications. But  
10 instead of the previous e-mail, it was an e-mail address used  
11 by the defendant from his Arborist account. This is one from  
12 p@fq.org which is the associated with the defendant at the  
13 Qur'an Foundation address.

14 Q. Okay. And then moving into the actual  
15 El-Fiki transaction, SW-22?

16 A. Okay. Yes. This is an e-mail from p@fq.org which  
17 is associated with the defendant to Haramain@al-Haramain.org  
18 which is the e-mail address for the Saudi-based organization,  
19 and it is a confirmation -- or they're seeking confirmation of  
20 whether or not the El-Fiki funds had come.

21 Q. And --

22 A. Yes?

23 Q. If we could go to the bottom and I guess  
24 work up so we can -- directing your attention to  
25 the paragraph that's highlighted here. Mr. El-Fiki



1 is the sender of this first e-mail?

2 A. Yes. It looks like Mr. El-Fiki is the sender of the  
3 first e-mail and he is looking -- or he is stating that he has  
4 asked his bank in London to make a transaction to the U.S.  
5 account for al-Haramain using details that were provided  
6 earlier to him.

7 Q. "Use Zakat in order to participate in  
8 your noble support to our Muslim brothers in  
9 Chechnya"?

10 A. Yes.

11 Q. And then giving banking coordinations or  
12 the transaction details -- I'm sorry. Is that  
13 right?

14 A. Yes. He's asking for some type of receipt or  
15 confirmation. An e-mail, yeah. Looks like he's asking for  
16 confirmation --

17 Q. Okay.

18 A. -- of the receipt.

19 Q. Okay. Scroll -- I'm sorry. If we could  
20 scroll up a little bit on that and then take the --  
21 the first one here. What's this one right here?  
22 It says: From al-Haramain to Pete?

23 A. Yes. This is, again, an e-mail from the Saudi  
24 organization in Riyadh to the defendant regarding this  
25 transaction. It's signed: Soliman. And he's asking the

1 defendant to check for the funds transfer basically and let  
2 him know.

3 Q. Okay. And then up top, the last one,  
4 where the defendant responds or somebody using  
5 p@qf.org responds saying what?

6 A. He's asking do you know the donor and that he wanted  
7 to advertise in Islamic Horizon, which I understand is a  
8 magazine for dawah work for refugee relief fund.

9 Q. Can we go to AHIF-8 please? Taking you  
10 briefly out of the search warrant series, but do  
11 you recognize this same e-mail traffic but  
12 something a bit more to it on February 21st, the  
13 top?

14 A. Yes. Then an e-mail is sent back from the Saudi  
15 organization to P, which I believe is p@qf.org, regarding:  
16 No, I don't. Did you receive the money?

17 Q. Okay. February 21st?

18 A. Yes.

19 Q. All right. SW-23. The top here,  
20 Al-But'he to Pete, one day before the money arrives  
21 in Oregon?

22 A. Yes. The date was significant because, again, it's  
23 one day before the money arrives. And then the e-mail is  
24 discussing charities and how Islamic charities are being  
25 affected by scrutiny by the government -- government.

1 Q. Now, there's been some testimony  
2 forensically that this -- this paragraph had been  
3 highlighted in -- by the sender named Al-But'he.  
4 "U.S. officials also said they had discovered  
5 through the massive probe that a significant number  
6 of Islamic terrorists are --"

7 THE COURT: Slower please.

8 MR. CARDANI: I'm sorry.

9 Q. (By Mr. Cardani) "-- are concealing  
10 their activities and sources of funds by using  
11 charitable organizations as fronts. Since many of  
12 these charities do substantial community service  
13 work, investigating them is not easy and can  
14 subject the FBI or foreign law enforcement  
15 authorities to allegations of targeting religious  
16 or ethnic groups, sources said." That's one day  
17 before the El-Fiki money came?

18 A. Correct.

19 Q. And we know -- I'm not going to run  
20 through all the bank records but -- unless we need  
21 to -- the bank received the El-Fiki donation here  
22 in Oregon on February 24th?

23 A. Correct.

24 Q. By way of a wire transfer?

25 A. Yes. By way of a wire transfer from Mr. El-Fiki's

1 London account.

2 Q. So is the money here -- SW-24 please.

3 This is one day after the money was -- had arrived?

4 A. Yes. It's the day after the money has arrived, and  
5 this is an e-mail from the defendant from his Arborist account  
6 to ferhad@aneiva.com. This individual was Ferhad Erdogan who  
7 is an acquaintance of the defendant's.

8 Q. Okay. Okay. There's a reference to that  
9 Gogaz (sic) site?

10 A. Qogaz, yes.

11 Q. All right. And then down below this is  
12 -- if we could scroll down a little bit, the title  
13 of this?

14 A. Yes. It's a biography of a Turkish mujahideen  
15 martyred in Chechnya.

16 Q. SW-27. Okay. February -- go ahead.  
17 What's significant about this?

18 A. Yeah. I -- I chose this one, again, because we are  
19 within the time period. The funds have come in from  
20 Mr. El-Fiki but the funds have not been distributed yet. And  
21 this is a -- a sample of a Sheeshaan e-mail that came in  
22 during that time period talking about how somebody can train  
23 themselves for jihad.

24 Q. All right. SW-28. When did  
25 Mr. Al-But'he go to the bank with Mr. Seda to get

1 this money?

2 A. I believe it was March 10th.

3 Q. All right. What happened -- why'd you  
4 select this one?

5 A. This -- this one is one day before the traveler's  
6 checks are ordered by the bank from American Express. And --

7 Q. Subject line?

8 A. Yeah. The subject line is: "About 13 mujahideen  
9 annihilating Russian convoys."

10 Q. SW-30. Okay. This is from -- why'd you  
11 select this one?

12 A. Again, we're in that really critical time period now  
13 where the traveler's checks have been ordered. This is the  
14 day before they actually get to the bank and the funds are  
15 picked up. And it is a fatwa by Ibn Jibreen. And because it  
16 is a fatwa, it -- and what it talks about below, I felt that  
17 it was significant.

18 Q. Now, stepping aside from these for a  
19 moment, going into the Bank of America records,  
20 have you examined the Bank of America records that  
21 have been exhibited in this case?

22 A. Yes, I have.

23 Q. And with respect to the bank account  
24 where the El-Fiki money was received, you've  
25 analyzed the contents of that account?

1 A. Yes, I have.

2 Q. Did you confirm the wire transfer that  
3 came into that account on February 24th?

4 A. Yes.

5 Q. And then it went out in March?  
6 March 10th and 11th?

7 A. March 10th, the 131,300 went out, and March 11th,  
8 the 21,000 went out. Yes.

9 Q. Okay. Prior to the El-Fiki money being  
10 received in that account, was there much money in  
11 it?

12 A. There was a relatively low balance. And the reason  
13 I look for that is if there's a low balance in an account, and  
14 let's just say there's two, three thousand dollars in an  
15 account, then you get a significant deposit into that account  
16 and then you have some type of expenditure of a significant  
17 amount.

18 Well, the expenditure is based on that large  
19 deposit. So the funds -- that expenditure is basically using  
20 the funds that were previously deposited, the large deposit.

21 Q. Okay. So did you do that examination  
22 with respect to the traveler's checks that were  
23 purchased and the cashier's check that were (sic)  
24 purchased out of that account?

25 A. Yes. I basically did a small analysis, looked at

1 the account, and determined that neither the American Express  
2 checks or the 21,000 could have been purchased without the  
3 deposit of the El-Fiki funds.

4 Q. So ICE-CBP-1. Next page of that one.  
5 Does this confirm Mr. Al-But'he's trip into the  
6 United States on March 7th?

7 A. Yes, it does. It shows that Mr. Al-But'he arrived  
8 in the United States on March 7th. And then he again departed  
9 on March 12th.

10 Q. Okay. And AMX-2. Okay. This shows that  
11 up here on March 7th. Why is that date  
12 significant?

13 A. March 7, 2000, is the date that the traveler's  
14 checks are actually shipped from American Express to Bank of  
15 America.

16 Q. Now, are those serial numbers consistent  
17 with the serial numbers on the actual traveler's  
18 checks that you were later able to find?

19 A. Yes, they are.

20 Q. BOA-7, the check used to purchase the  
21 traveler's checks?

22 A. Yes. This check was used to purchase the \$131,000  
23 American Express traveler's checks.

24 Q. And then BOA-8?

25 A. Yes. This is the check that was used to purchase

1 the -- a cashier's check in the name of Soliman Al-But'he.

2 Q. And BOA-9?

3 A. That is the traveler -- or that is the cashier's  
4 check.

5 Q. Okay. Is it your testimony that both of  
6 these transactions cleared the account based on the  
7 El-Fiki deposit, in other words, it was that money  
8 that was necessary to make these things work?

9 A. Yes, it was.

10 Q. ICE-FinCEN-1. Mr. Al-But'he's now  
11 leaving the country and filed no CMIRs?

12 A. Yes. Once I determined that a significant amount of  
13 money had left the United States, I had asked an immigration  
14 and customs enforcement officer to check to see if a CMIR or  
15 currency monetary instrument report was filed by  
16 Mr. Al-But'he.

17 Q. And it wasn't?

18 A. And, no, there was no CMIR filed on this occasion.

19 Q. Okay. Special Agent Anderson, in your  
20 experience, talking about traveler's checks for a  
21 moment, are traveler's checks -- you've done a lot  
22 of financial investigations?

23 A. Throughout my 15 years, I've done -- yeah, various  
24 types of financial investigations. I do investigations  
25 regarding tax evasion and money laundering, and within that



1 realm, you get various different types including, you know,  
2 drug-related cases and things like that. Yes.

3 Q. Are you familiar with the concept in  
4 financial investigations of follow the money trail?

5 A. Yes. That's what I do.

6 Q. Okay. And so how do you do that?

7 A. Basically what you do when you're trying to follow  
8 money is, you know, you start with bank records or any type of  
9 records that will give you a base point. And in this  
10 instance, we've got at this point -- we've been shown --  
11 you've got 131,300 going out to buy American Express  
12 traveler's checks and a \$21,000 cashier's check.

13 Now, if you're dealing with regular checks, those  
14 come back to the bank. And if you're lucky and the bank  
15 hasn't lost them, then you can review the back of those items  
16 and take a look to see possibly, you know, where those items  
17 were deposited and then track them from there into somebody's  
18 account.

19 Unfortunately, with American Express traveler's  
20 checks, that same process of trying to identify where they go  
21 is much more difficult. American Express does not keep the  
22 information as to where their traveler's checks are actually  
23 cashed. Their system has American Express traveler's checks  
24 -- where they were purchased. Basically where American  
25 Express sent the items to, Bank of America.

1           So in the process of trying to find these particular  
2 items, I had to contact American Express to find out, you  
3 know, do you store this type of information. I was told, no,  
4 they did not. And then my discussions with that organization,  
5 with American Express, led to how can I track these funds if  
6 you don't show the disposition of your own checks.

7           And in that conversation, I found that one of the  
8 individuals with American Express was lucky enough to actually  
9 obtain the original American Express traveler's checks in this  
10 transaction that I could then utilize to try and track the  
11 funds based on the stamps showing the process -- where the  
12 checks were -- the traveler's checks were processed.

13           Q.    Okay. So we know from the case that  
14 we've already introduced the original American  
15 Express traveler's checks that were purchased by  
16 the defendant and Mr. Al-But'he here in Oregon?

17           A.    Yes.

18           Q.    All right. And so you say you were lucky  
19 enough to actually get them. Can we go to AMX-1,  
20 please, and look at the back side of these checks?  
21 And I'd like you to tell the jury, did this help  
22 you in your investigation?

23           A.    Yes. This is -- unfortunately, it's a poor-scanned  
24 copy of my -- of the backs of the traveler's checks. May I  
25 touch the screen?

1 Q. Sure.

2 A. Okay. If you can see up here, right up here, it's  
3 very light, but it says: Al-Rajhi Banking and Investment.  
4 And from that, I was able to tell that the traveler's checks  
5 had been processed by Al-Rajhi Banking Investment and that  
6 they used chase Manhattan as their correspondent U.S. account  
7 to process them.

8 Q. Okay. So if you look at the original  
9 checks, can you make that out?

10 A. Yeah. The original checks are much clearer, yes.

11 Q. Okay. And so AMX -- AMX-3. What's that?

12 A. That -- that appears to be a bank stamp from  
13 Al-Rajhi Banking Investment.

14 Q. All right. Now, I'd like you to step  
15 back for a minute, sort of turn -- go -- blacken  
16 the screens for a moment if I might and ask you  
17 something.

18 Did you attempt -- I'm sorry. Could we  
19 go back to AMX-3? I missed something. Did you get  
20 these things translated? There's some Arabic on  
21 this stuff.

22 A. Yes. I had to get -- I had to get them translated  
23 to find out what the stamps said, yes.

24 Q. Okay. And did you find out that -- well,  
25 what did you find out in the translations?

1           A.    Can you show me -- yeah. In the translations,  
2           again, we saw that it was Al-Rajhi Banking and Investment.  
3           That was actually in English so that, you know, I could make  
4           it out myself. And then with the translations, I was able to  
5           tell that the traveler's checks were actually cashed at the  
6           Al-Hijaz street branch for Al-Rajhi Banking Investment.

7           Q.    Okay. And then what about the BOA-9-A?  
8           If we could go to the back side of that. Is there  
9           some -- you were able to get this from the bank --  
10          Bank of America here in the United States?

11          A.    Yes, I was.

12          Q.    Okay. And there's some Arabic. Did you  
13          get the Arabic translated?

14          A.    Yes, I did.

15          Q.    All right. If we could go to the next  
16          page. And it translates into --

17          A.    To be deposited to our account number and then it  
18          gives me 10920-6. Again, the Al-Hijaz street branch.

19          Q.    Now, did you, Agent Anderson, attempt to  
20          trace further the proceeds of the American Express  
21          traveler's checks and the Bank of America cashier's  
22          check that went to this -- went overseas?

23          A.    Yes, I did. Once I determined that the funds had  
24          gone to Al-Rajhi Banking Investment in Saudi Arabia, I  
25          employed, at first, diplomatic means to try and get these bank

1 records showing the actual deposits or what happened to these  
2 items in Saudi Arabia. And after that didn't work, I ended up  
3 issuing a subpoena to the Al-Rajhi Banking Investment bank.

4 Q. Okay. How long -- you said diplomatic --  
5 I missed that last part. You said diplomatic  
6 measures and then what?

7 A. And then after that didn't work, I ended up issuing  
8 a subpoena or requesting a subpoena from the U.S. Attorney's  
9 Office to request those bank records from Al-Rajhi Banking  
10 Investment in Saudi Arabia.

11 Q. Had you ever issued a subpoena attempting  
12 to get international bank records before?

13 A. No, I had not.

14 Q. Was it an easy process?

15 A. No, it was not.

16 Q. Okay. Was it ultimately somewhat  
17 successful?

18 A. Yes, it was.

19 Q. Okay. You mentioned diplomatic. Were  
20 there -- how long did this process take?

21 A. Couple years.

22 Q. Was there some push back from the bank?

23 MR. WAX: Objection, relevance.

24 THE COURT: I didn't hear the question. I'm sorry.

25 MR. CARDANI: The question was: Was there push back

1 from the bank?

2 THE COURT: Overruled.

3 Q. (By Mr. Cardani) Was there push back  
4 from the bank?

5 A. Oh, I'm sorry. Yes, there was.

6 Q. And did that result in some -- a lot of  
7 legal back-and-forth as well?

8 A. Yes. There was -- again, there was some legal back  
9 and forth on whether or not they were going to comply with the  
10 subpoena and, ultimately, they did.

11 Q. Okay. I'd like to go to what's been  
12 marked as ALR-1-A. Is this a certification of the  
13 Al-Rajhi bank records that ultimately made their  
14 way over from Saudi Arabia?

15 A. Yes. This is the certification that came with the  
16 first batch of Al-Rajhi records that came over. My records  
17 consisted of basically two batches that they supplied.

18 Q. All right. If we could go to -- the  
19 third page of that. Okay. What's -- what is that?

20 A. This is -- this is a bank receipt from Al-Rajhi  
21 Banking Investment showing that -- showing the \$131,000  
22 traveler's checks, American Express traveler's checks. And,  
23 again, you can see the serial numbers are reflective of the  
24 serial numbers that were on the preorder slip from American  
25 Express. That these particular checks were cashed -- if you

1 can go down further -- they were actually cashed for what  
2 appears to be Saudi rials. 486,850 Saudi rials.

3 Q. SR refers to Saudi rials?

4 A. Yes.

5 Q. Is that the currency in Saudi Arabia?

6 A. Yes, it is.

7 Q. Now, there's a bunch of letters on this.

8 If we could get a snapshot of this and to the  
9 right. You see some letters like FGH and things  
10 like that?

11 A. Yes. The letters correspond to translations that I  
12 had done so that I could understand, you know, everything  
13 that's on the document. So these items were translated.

14 Q. Okay. So in these records for the jury,  
15 we have the receipt without these letters but then  
16 the translated version with letters that have been  
17 added by the translators to associate the English?

18 A. Yes. To help me understand basically what -- what  
19 was on every line and understand what was in Arabic that I  
20 didn't know.

21 Q. Okay. And so if we could go to the next  
22 page. Now, so you're saying the bottom right here  
23 is the translation of that same receipt?

24 A. Yes. And what this helped me with was if you look  
25 at item F, it shows that the person that cashed these

1 traveler's checks was Soliman Hamd Al-But'he or Al-But'he.

2 Q. And how about C, the date of the  
3 transaction?

4 A. Yes. The date was March 14th, 2000. And that was  
5 significant to me because my records show, again, that  
6 Mr. Al-But'he flew out of JFK on March 12th, arrived in Saudi  
7 Arabia on March 13th, and then it appears here that these  
8 traveler's checks were cashed on March 14th.

9 Q. Now, anything more on the Al-Rajhi  
10 records with respect to the traveler's checks?

11 A. No. I think that's --

12 Q. All right. Did you also successfully  
13 obtain bank records from the Al-Rajhi bank  
14 concerning the disposition of the cashier's check,  
15 \$21,000 cashier's check?

16 A. Yes, I did.

17 Q. So let's start with the statement.

18 Oh, I'm sorry. This is from the same  
19 Exhibit ALR-1-A. Page -- all right. Are these  
20 part of the Al-Rajhi records concerning the  
21 cashier's check?

22 A. Yes, they are. And -- may I explain?

23 Q. Yeah.

24 A. Okay. As you can see -- I'll try not to mess it up.  
25 If you can see here, it shows a credit into the account of



1 Mr. Soliman Al-But'he. 78,729 reflects the 21,000 in Saudi  
2 rials. I believe that the conversion rate is 3.749. And it  
3 shows it as a deposit. And here, it shows a date of  
4 April 8th.

5 Q. Where do you see April 8th?

6 A. Right here.

7 Q. Oh, okay. All right. So this is the  
8 statement of account for the account of Soliman  
9 Al-But'he in Saudi Arabia?

10 A. Yes.

11 Q. And what you're saying here is this shows  
12 that on April 8th he deposited our cashier's check  
13 into this account and was credited with 78,000  
14 rials?

15 A. Yes. And I should probably explain that. The  
16 deposit actually didn't occur on 4-8. With a cashier's check  
17 of this type, any time you try and process an instrument like  
18 that overseas, in general, it takes about, you know, 15 to  
19 20 days in order for it to process. Because the process is  
20 that the cashier's check goes to the foreign bank, Al-Rajhi  
21 Banking investment. They then have to go to their U.S.  
22 correspondent account to then go back to the issuer of the  
23 check to get payment. And a lot of banks will not credit your  
24 account until they have received payment.

25 So that's why you see such a time period reflected

1 from the time he was back in Saudi Arabia to the credit into  
2 his account.

3 Q. Okay. And so were you able to -- what's  
4 the next page? Next page? Okay. What's this? If  
5 you hit the lower corner, I think you'll be able to  
6 clear those red lines.

7 A. Oh, I see it. Sorry. Oh. Hm. I don't think it's  
8 working. Oh, there it goes.

9 Q. Okay. What do we have here?

10 A. Okay. This is -- this is also a deposit record for  
11 the bank. A lot of it's in Arabic, but what I can read  
12 without the translation is the 21,000. It's a Bank of America  
13 cashier's check. And I'm afraid the rest is in Arabic.

14 Q. Okay. Can we have the translation on the  
15 next page? Okay. So what does the translation  
16 tell you?

17 A. The translation tells me that the account was  
18 credited on April 8th of 2000. Again, the Al-Hijaz road (sic)  
19 branch for the account of Soliman Hamd Al-But'he. The rate  
20 was 3.749. I guess I got that right. Okay. And his account  
21 number is 10920 as we saw earlier.

22 Q. Okay. Did you get more Al-Rajhi records  
23 that showed how Mr. Al-But'he used this money once  
24 it hit his account?

25 A. Yes. I got somewhat limited records, but after the

1 April 8th credit on the account, I received bank statements  
2 for that April 8th, and this -- once this was credited to his  
3 account, he had other ins and outs. But basically it appeared  
4 that it stayed in the account and it's starting to dwindle  
5 down basically.

6 Q. Spent --

7 THE COURT: How much more do you have, counsel? Looks  
8 like more than one page. I think we'll take a break now.

9 MR. WAX: Your Honor, can we have a moment with you  
10 after the jury goes out?

11 THE COURT: Yes. I have another something too.

12 Members of the jury, I've decided to find a way to get  
13 you out of here somewhat earlier tomorrow. Some of you, I know,  
14 have plans that aren't here local. And mine are at Autzen  
15 Stadium so it's really easy for me. But you probably have other  
16 things that you're going to do with the holiday weekend. And so  
17 I don't know exactly what time it will be, but I'm going to try  
18 and plan accordingly. All right? Thank you.

19 (Jury exits courtroom.)

20 THE COURT: 9:00 tomorrow.

21 MR. WAX: And are they coming back tonight or are you  
22 excusing the jury now?

23 THE COURT: Actually, I misread the clock. I think  
24 I'll give you ten minutes since you're standing up.

25 You may step down.

1           The testimony hasn't been scintillating today and I  
2       guess I thought it was 5:00. All right.

3           If you have something now, that's fine. I'm going to  
4       -- we're going to have a session with those lawyers with security  
5       clearance after court today.

6           MR. WAX: Okay. Our question, your Honor, has to do  
7       with scheduling.

8           THE COURT: Yes.

9           MR. WAX: We scrambled and we got some witnesses up  
10      here today, and at least one says that it would be exceedingly  
11      difficult to stay overnight. So --

12          THE COURT: Who is that and what is their testimony  
13      about?

14          MR. WAX: That's Rabbi Zaslow.

15          THE COURT: All right. I assume that the testimony  
16      will be short?

17          MR. WAX: Maybe a half hour.

18          THE COURT: All right. Well, and how much longer do  
19      you think you have with this summary witness?

20          MR. CARDANI: I have three subjects. I would say  
21      probably 15 to 20 minutes.

22          THE COURT: And what do you anticipate for cross?

23          MR. WAX: I'm wondering if it might make more sense if  
24      you're agreeable to take the rabbi this evening and then do the  
25      cross tomorrow because I do not imagine -- if Mr. Cardani goes

1 another, you know, past 4:30, I'm certainly not going to be done  
2 by 5:00.

3 THE COURT: Well, I'll take -- I'm going to see how it  
4 goes, frankly. I'm not going to keep the jury real late tonight.  
5 It's been a brutal day for a juror or a judge sitting here, and  
6 that's just the truth. I'll find another day for him to come  
7 back if we have to, but we'll take our short break right now.

8 MR. WAX: Judge, in terms of next week, my best guess  
9 would be that we may finish Tuesday. You know, certainly  
10 Wednesday at the latest and then sometime during the day. So I  
11 don't anticipate that we're going to have a time crunch.

12 THE COURT: All right. I told my staff that we would  
13 be instructing on Wednesday. Never done this before. But --

14 MR. MATASAR: Worst case.

15 (A short recess was held.)

16 (Jury present.)

17 THE COURT: We're waiting for one more. We've got  
18 enough here though. I'm going to -- you know what I do most days  
19 is judicial mediation. I do a lot of that. So I'm going to make  
20 an offer to you. We actually don't decide things in a courtroom  
21 by majority vote. I get to decide in here.

22 But I'm just looking at our schedule. I've been  
23 talking to the lawyers during the break. I'd like to finish this  
24 witness, and then we only have one more short witness, and that  
25 could take us until 6:00. But if you're willing to hang in there

1 with me that long today, then I'll recess midday tomorrow. Can  
2 you go along with that with me? All right. That'd be wonderful.  
3 That's what we'll do then. Thank you.

4 Okay. What we're going to do, counsel, then is -- just  
5 a moment.

6 (A discussion was held off the record.)

7 THE COURT: That's fine. Had to do with a phone call,  
8 counsel. We're going to finish this witness and take care of the  
9 witness and we're shooting for 6:00 to get out of here. All  
10 right. So let's not waste any time.

11 MR. CARDANI: Okay. May I proceed, your Honor?

12 THE COURT: Yes. Please do.

13 **DIRECT EXAMINATION OF COLLEEN ANDERSON** (continued)

14 BY MR. CARDANI:

15 Q. Special Agent Anderson, ALR-2, the last  
16 Al-Rajhi bank record that I want you to look at.  
17 Are you familiar with this document coming out of  
18 Saudi Arabia?

19 A. Yes, I am.

20 Q. Okay. I'd like to go to page one of the  
21 actual document. In the upper right-hand corner,  
22 identify what we're looking at here.

23 A. Yes. This is basically a bank statement from  
24 Al-Rajhi Banking Investment for the account of Soliman  
25 Al-But'he.

1 Q. All right. And then if you could go to  
2 -- if you could go to page three of that document.  
3 All right. Page three of the same account, if we  
4 could scroll down. Were you able -- for the  
5 benefit of these records, were you able to show  
6 that this was -- that the cashier's check of  
7 Mr. Al-But'he was deposited into his account?

8 A. Yes. The cashier's check that we discussed, the  
9 21,000 which converts to 78,729 in Saudi rials, was deposited  
10 into Mr. Al-But'he's personal account on 4-8.

11 Q. Okay. And there are translations -- and,  
12 well, if we could go a little bit further and then  
13 go on to the next page. Were his -- his account  
14 was then credited with this transaction?

15 A. Yes, it was.

16 Q. And then if we could go to the next page.  
17 What's depicted here on the next page in  
18 Mr. Al-But'he's bank records?

19 A. Basically you have some debits and credits going in  
20 and out like any bank statement. And then what it shows here  
21 is that the funds remain in the account. And up to the time  
22 of the records that I have, it shows it remains in the account  
23 and it's starting to be spent down.

24 Q. All right. And there are other records  
25 as part of the ALR-2 series that are English

1 translations which similarly have those -- those  
2 letters and all of that; is that right?

3 A. Yes.

4 Q. Okay. But they -- anything else you want  
5 to add before we leave the Al-Rajhi records?

6 A. Well, specifically when I got these bank statements,  
7 what I was looking for was any type of movement of the funds  
8 anywhere else other than his personal bank records, and I  
9 could not find that.

10 Q. Okay. Turning to a different subject  
11 here, if we could go to SW-17. What's that?

12 A. Yes. This is a Hotmail e-mail from --

13 Q. Look at the very top.

14 A. Let me see. Yes. It's the ptichka1@hotmail and it  
15 is to qoqaz.net. And this particular e-mail was of interest  
16 because the individual describing themselves as ptichka1, who  
17 is using the computers at -- let me start again.

18 The individual that is ptichka@hotmail is using the  
19 computers at al-Haramain Islamic Foundation in Ashland to  
20 correspond with Qoqaz and they are discussing translations.  
21 And if you can see down here, they reference her as -- oops,  
22 if you can clear that. It just moved up. They reference here  
23 as: Dear sister.

24 And the -- it goes on to discuss this individual  
25 doing translations for the website.



1 Q. Okay. And then SW-29?

2 A. Yes. This document was important to me because the  
3 previous document that we saw was captured by my computer  
4 specialist showing that this individual, who calls herself  
5 ptichka1@hotmail.com, she is shown here in the CC. And the  
6 defendant at the Arborist address, pete@thearborist.com is  
7 e-mailing an individual at webmaster@ichkeriya.com, and the  
8 subject matter of the e-mail is that: "We are working on a  
9 Russian website and I would like to ask you is it okay if we  
10 use your map of Chechnya and disclaimer on our Russian  
11 website. Please reply ASAP."

12 So this particular e-mail stuck out to me because  
13 the defendant right here cc'd ptichka regarding the e-mail  
14 requesting use of this map for this Russian website that is  
15 associated with qoqaz.com.

16 Q. And he referred to it as: "Our Russian  
17 website"?

18 A. Yes. And in this it says: "Our Russian website."

19 Q. All right. I'd like to turn to a new  
20 subject here, SW-21. All right. Go ahead.

21 A. Yes. I picked this particular one because Mr. Al  
22 Shoumar, who is -- yeah. Right there. This is one of the  
23 series of e-mails that Mr. Al Shoumar sends to p@qf.org which  
24 is an e-mail address associated with the defendant. And in  
25 this e-mail, he lays out the fact that he is responsible to

1 handle the financials of the Ashland, Oregon branch. And it's  
2 basically an introductory -- introductory letter saying: Here  
3 I am. I'm going to be -- you know, I'm responsible for the  
4 financials here. I'm going to be asking you for things and  
5 that kind of thing.

6 Q. Okay. And down here, there's a reference  
7 to brother Abu Yunus?

8 A. Yes.

9 Q. Oh, and a little bit lower. Reference to  
10 using Quicken software to record all transactions  
11 starting in January 2000?

12 A. Yes. And that was somewhat surprising to me. This  
13 particular -- particular individual, Al Shoumar, who is an  
14 accountant, seems to be wanting them to use Quicken software  
15 versus the QuickBooks software that the U.S. accountant wanted  
16 to use for the U.S. organization.

17 Q. All right. And it's -- al Shoumar is his  
18 last name here?

19 A. Yes.

20 Q. All right. His name is up there on the  
21 chart?

22 A. Yes.

23 Q. Okay. SW-43. Does this also involve  
24 this fellow Shoumar?

25 A. Yes. Again, it is another e-mail from Mr. Shoumar

1 and this time it is to the defendant and the codefendant,  
2 Soliman Al-But'he.

3 Q. Okay. And it references what?

4 A. References some clarifications. And it appears in  
5 the e-mail that -- let me see -- that Mr. Shoumar is concerned  
6 about financial issues --

7 Q. Can we go to page three of that?

8 A. Yeah.

9 Q. All right. That last paragraph?

10 A. Yes. This is -- this is part of the initial e-mail  
11 chain. What you're seeing here is actually this document has  
12 got some back and forth going on. And basically the bottom is  
13 the first e-mail, and then they reply, and it kind of goes up  
14 from here. So this is the bottom of the e-mail.

15 And in this one, Al Shoumar cc's Soliman Al-But'he  
16 and states that he would appreciate it if you'd send all the  
17 amounts that has nothing to do with the foundation business to  
18 another account. Adding this amount to the deposits and  
19 expenses in the al-Haramain account would give us the wrong  
20 view about the actual situation.

21 So he's -- he's discussing a deposit that he feels  
22 has nothing to do with foundation business into the  
23 al-Haramain account.

24 Q. And are there spreadsheets -- several  
25 spreadsheets that are attached to this?

1           A.    Yes.  When I went through the spreadsheets, one of  
2   the spreadsheets -- and it's a long spreadsheet so I didn't  
3   want to show -- show everything, but at the bottom of one of  
4   the spreadsheets, if you're familiar with Excel, for instance,  
5   I don't know that that is what they used in this, but it looks  
6   like an Excel-style format anyway, there is a section that  
7   says:  Brother Soliman or like a column for Soliman.

8                   And in that column, attached to this e-mail, is the  
9   21,000 and the 131,300 that we're talking about in the  
10  financial transaction.

11           Q.    Okay.  SW-53.  Okay.  What is this?

12           A.    This is one of -- and, again, there were a couple  
13  different documents like this where the defendant was sending  
14  basically financial summaries to the accountant in Riyadh,  
15  Mr. Shoumar, and it basically details some of the incoming  
16  expenses and things like that.

17           Q.    Okay.  Keep going down.  Did you find  
18  this in Mr. Wilcox's records at all?

19           A.    No, I did not.

20           Q.    All right.  Is there a reference to our  
21  transaction here in March 2000?

22           A.    Yes.  Right there.  Yeah.  The 131,300.  If you note  
23  that there is no reference on the 131,300 as to why the  
24  expenditure was made.  And then for the 21,000, the reference  
25  is Bank of America for Soliman.

1 Q. SW-62. It's the last Shoumar document  
2 I'd like to show you. But what is this?

3 A. This is a summary by Mr. Shoumar to the defendant,  
4 Abu Yunus, of the Internal Revenue Service letter. And --  
5 yep. That's what it is.

6 Q. Okay. If you could scroll below. Okay.  
7 And is this -- and the following thing an account  
8 -- an analysis of some of the information coming  
9 out of the IRS about what they can and cannot do as  
10 a tax-exempt organization?

11 A. Yes. Exactly.

12 Q. And on the last page: "Number one, keep  
13 case histories and records for all monies  
14 distributed with names, addresses, purposes of  
15 payment, manner of selection, relationship if any  
16 to any members, officers, trustees, donor, et  
17 cetera, payment; number two, payment to other  
18 organizations should be kept in special record  
19 showing whether they are exempt under section  
20 501(c)(3); and, three, if the organization  
21 receiving funds from al-Haramain is tax exempted,  
22 then you should make sure that the money paid is  
23 used for the right -- required purpose only"?

24 A. Yes. I found this particular section very  
25 interesting because, again, Al Shoumar is an accountant in

1 Saudi Arabia for al-Haramain in Saudi Arabia, and he is  
2 keeping track of and trying to deal with the records in  
3 Ashland. And he is specifically stating here that you have to  
4 keep these type of detailed records regarding distributions.

5 And this stuck out to me because I did not see this  
6 type of detail for the Chechnyan transaction.

7 Q. All right. And, once again, this was  
8 found in the defendant's computers?

9 A. Yes.

10 Q. And all the stuff that you've just been  
11 talking about, with the exception of the Al-Rajhi  
12 records, of course, were found in the Ashland  
13 computers?

14 A. Yes.

15 Q. Now, if we could turn that off for a  
16 minute. As you did your investigation, did you  
17 immediately stumble across in your financial  
18 transaction the so-called Chechnya transaction?

19 A. I'm sorry. Which part? The Chechnya --

20 Q. You were involved in a financial  
21 investigation in this case?

22 A. Yes.

23 Q. Did you immediately know about the  
24 connection with a possible transfer of money to  
25 Chechnya?

1           A.    No, I did not.

2           Q.    Did that take some time to kind of figure  
3 out?

4           A.    Yes. Yes, it did. Basically when I got involved in  
5 the investigation, I was reviewing the bank accounts. My  
6 normal procedure is to obtain bank accounts for whatever  
7 individuals or organizations that I am reviewing. And I have  
8 them myself or have some assistant pretty much put a lot of  
9 their bank activity into spreadsheets so that I can analyze  
10 the ins and the outs and it makes it easier for me to  
11 determine where the funds went. Basically I can see the  
12 deposits coming into my spreadsheet and then I can see the  
13 allocations going out.

14                   And when I did that, you could see some large  
15 allocations going out. And obviously the 131,300 and the  
16 21,000 are significant, you know, distributions from a small  
17 charity like this. And I couldn't immediately see, you know,  
18 where these distributions went.

19                   So then I had to start from there on figuring out --  
20 going back to Bank of America, getting the records they have,  
21 trying to get the cashier's check, reviewing the back of the  
22 cashier's check, see who processed it, request additional  
23 information from them, you know. And then, again, ultimately  
24 it took me to the Al-Rajhi Bank in Saudi Arabia in order to  
25 determine the final -- you know, the disposition position at

1 that point.

2 Q. How long did this process take you?

3 A. Year and a half. Two years.

4 Q. All right. So at some point in time did  
5 you learn about a possible connection with  
6 al-Haramain in Oregon and Chechnya and the funding  
7 in the -- of a possible transaction involving  
8 Chechnya?

9 A. Yes. In the process of trying to track the  
10 cashier's check and the traveler's checks, I requested the  
11 U.S. attorney's office issue a subpoena to the corporation,  
12 al-Haramain Islamic Foundation here in Ashland, the  
13 corporation, to get the corporate books and records to help me  
14 determine where these funds had gone basically.

15 Q. All right. And did those -- was that  
16 subpoena given to you?

17 A. Yes, it was.

18 Q. And did you attempt to serve that?

19 A. Yes. I attempted to serve it on the defendant,  
20 however, he was not available. So I ended up serving the  
21 subpoena on Laleh and Summer who were still at the foundation  
22 and were -- were the bookkeepers basically.

23 Q. Did -- is it your understanding that the  
24 defendant was married to one of these two  
25 individuals at the time?



1 A. Yes.

2 Q. And did you serve that subpoena?

3 A. Yes.

4 Q. Okay. And so, over time, did you start  
5 getting records -- did you get some records in  
6 response to that subpoena?

7 A. Yes. Over a period of time, I believe I served the  
8 subpoena -- I don't have the exact date for you, but I believe  
9 I served the subpoena in June of 2003, and I got approximately  
10 three batches of records from attorneys for the foundation  
11 pursuant to the Springfield.

12 Q. Okay. What do you mean by batches, just  
13 -- was that at one time or separate times?

14 A. Separate times. So basically I would get the first  
15 batch and I was told that more were coming. I'd get a second  
16 batch and then finally a third batch.

17 Q. But before those second and third come,  
18 did you take any steps to refine the request  
19 because you weren't getting certain records?

20 A. Yes. After the -- after I received the first batch,  
21 it was a pretty small batch, and I didn't -- I didn't feel  
22 that the types of records that --

23 MR. WAX: Your Honor, I'm going to object. This is  
24 going to get into a whole collateral matter involving counsel, et  
25 cetera.

1 MR. CARDANI: No, it's not.

2 THE COURT: Don't go there.

3 MR. CARDANI: I won't go there.

4 THE COURT: The objection's overruled.

5 THE WITNESS: Okay. After the first batch of records  
6 and after reviewing them, I basically typed up a list of, you  
7 know, what was there and basically what wasn't there. What I  
8 expected to get that was not received.

9 And so I put together a list of items that I wanted,  
10 pursuant to the subpoena, so that we could give them back to the  
11 foundation so they could supply those records.

12 Q. (By Mr. Cardani) So you met with lawyers  
13 representing al-Haramain?

14 A. Yes.

15 Q. Okay. And refined the request. And did  
16 you specifically ask for records relating to  
17 Chechnya?

18 A. Yes. In my request, I asked for records I believe  
19 for Kosovo, Albania, Chechnya, maybe other countries, yeah.

20 Q. Okay. And so you -- so you got batches.  
21 So over three different times you got records in  
22 response to these requests?

23 A. Yes.

24 Q. And did you examine all those?

25 A. Yes.

1 Q. Fairly large volume of information?

2 A. Over the three batches.

3 Q. Okay. I'm just going to ask you about a  
4 couple of them. AHIF-2. Okay. Did you get that  
5 in response -- did you get this in response to an  
6 official -- excuse me one second. Did you get  
7 those in response to a federal grand jury subpoena  
8 served on al-Haramain through an attorney of the  
9 al-Haramain U.S. office?

10 A. Yes, I did. This particular document I got -- and  
11 that would have been I believe batch two that I received it.  
12 And this document came from Saudi Arabia.

13 Q. And this was -- this was during the  
14 criminal investigation that you got this?

15 A. Yes.

16 Q. All right. And this document came from  
17 Saudi Arabia?

18 A. Yes.

19 Q. From the al-Haramain offices?

20 A. Yes.

21 Q. Okay. Now, in another batch, did you get  
22 AHIF-3?

23 A. Yes, I did. And this -- I believe came in batch one  
24 which came from the Ashland offices.

25 Q. Okay. So something very similar but from

1 a different al-Haramain source?

2 A. Yes.

3 Q. All right. Okay. So one came from Saudi  
4 Arabia, one came from the United States?

5 A. Yes.

6 Q. But both came from lawyers here  
7 representing al-Haramain?

8 A. Yes, it did.

9 Q. Now, AHIF -- if we could go back to  
10 AHIF-2. All right. What can you tell us about  
11 this?

12 A. Well, as you can see, it appears to be a typed  
13 written receipt that is an agreement between Soliman and Abu  
14 Yunus stating that he's turning all monies and  
15 responsibilities collected for the brothers and sisters in  
16 Chechnya over to brother Soliman. And that Soliman has  
17 received \$186,644.70 from the defendant and he fully relieves  
18 the defendant of all responsibilities to the money.

19 Q. Okay. Now, this one came from Saudi  
20 Arabia?

21 A. Yes, it did.

22 Q. All right. And you see a date there,  
23 March 11, 2000?

24 A. Yes.

25 Q. Do you know if this was actually signed

1 on that date or not?

2 A. I have -- actually, I -- I don't know if it -- was  
3 signed on this date. In fact, at the bottom where it says:  
4 "I deposit the amount in al-Haramain head office for Chechnyan  
5 refugees" at the bottom.

6 Q. Yes.

7 A. That -- that couldn't be possible on that date  
8 because Mr. Al-But'he hadn't left the country yet.

9 Q. And is that what you understand to be his  
10 signature at the bottom and on the top of this  
11 thing?

12 A. Yes.

13 Q. Okay. And this is a reference -- there's  
14 a reference here to money being exchanged in the  
15 amount of \$186,644. All right.

16 A. Yes. That -- another thing that caught my attention  
17 on this particular receipt is the amount of money here. The  
18 El-Fiki transaction that we've been discussing is basically  
19 131,000 plus the 21. So you've got 130 actually in traveler's  
20 checks and then the 21 which is 151,000. And this receipt  
21 purports that Mr. Al-But'he received \$186,644.70 from  
22 Mr. Sedaghaty, the defendant, and my review of the bank  
23 records show that that's not possible.

24 Q. How is that not possible?

25 A. Mr. Sedaghaty -- because the only other funds in the

1 account at this time were deposits made from an organization  
2 out of Canada, the Islamic Society of North America, and they  
3 had deposited some Canadian funds which was like 50 some, you  
4 know, thousand Canadian dollars or whatever that basically  
5 translates into about \$36,200 or something like that U.S.  
6 dollars. Those funds never left the al-Haramain U.S. account.  
7 So they were never given to Mr. Al-But'he to take with him to  
8 Saudi Arabia.

9 Q. So could there have been other monies?

10 A. No. There were no other funds of that magnitude in  
11 this account.

12 Q. At this time period?

13 A. At this time period yes.

14 Q. All right. AHIF-3. What about -- what  
15 about this one?

16 A. Okay. Again, it's -- it appears to be the same  
17 typed written face here, but as you can see, the amounts  
18 differ by a little bit. I think the other one was 186, this  
19 is 188.

20 And at this point -- on this one, there appears to  
21 be two witnesses signing for it. And, again, going back to  
22 the bank records and my bank analysis, it wasn't possible for  
23 Mr. Al-But'he to actually have those funds given to him by the  
24 defendant out of the al-Haramain account because those \$36,000  
25 from the Canadian charity never left the al-Haramain account.

1 Q. At this time period?

2 A. At this time period, yeah.

3 Q. Own. And this one came from the U.S.?

4 A. AHIF-3. Yes. This particular receipt came from the  
5 Ashland office.

6 Q. AHIF-1 is the last exhibit I'm going to  
7 show you. Almost done. Okay?

8 Was this part of the materials given to  
9 you in response to that subpoena for the records of  
10 al-Haramain?

11 A. Yes, it was.

12 Q. And this is during the criminal  
13 investigation?

14 A. Yes.

15 Q. Did that come from Saudi Arabia or the  
16 United States?

17 A. Yes. This -- this one came from Saudi Arabia. And  
18 as you can see, this -- this is a copy of the cashier's check  
19 that was given to Soliman Al-But'he that was then taken over  
20 to Saudi Arabia and deposited into his personal bank account  
21 and then spent down.

22 So, again, this caused me concern because it says  
23 that it's donations for Chechnyan refugees but it was actually  
24 deposited into his personal account.

25 MR. CARDANI: Thank you. That's all I have.

1 THE COURT: You may cross-examine.

2 MR. WAX: Thank you, your Honor.

3 **CROSS-EXAMINATION**

4 BY MR. WAX:

5 Q. Agent Anderson, good afternoon.

6 A. Good afternoon.

7 Q. You first got into this case in January  
8 of 2002?

9 A. January or February of 2002, yes.

10 Q. Okay. When you got into it, the FBI had  
11 some records that they turned over to you?

12 A. Yes. That's standard procedure. When requested to  
13 do an investigation, my -- they request me basically to take  
14 over the financials and to look at them.

15 Q. And you've become the case agent on the  
16 case as you've described?

17 A. Yes. I'm a co-case agent.

18 Q. Okay. Now, you have told us, I think,  
19 that this was the first case in which you've been  
20 involved in which you made an effort to serve a  
21 subpoena on an overseas bank?

22 A. Yes, I believe so.

23 Q. You were also describing the -- sounded  
24 like the learning process you went through with  
25 respect to the investigation of the traveler's



1 checks. Was this is the first case in which you  
2 had made that effort?

3 A. To look into traveler's checks?

4 Q. To trace them as you described today?

5 A. Yes.

6 Q. Thank you. You got into this case about  
7 four months after September 11th; correct?

8 A. Yes. Approximately.

9 Q. All right. September 11th was a major  
10 turning point in the life of this country?

11 A. I would agree with that, yes.

12 Q. And in terms of the nature of the  
13 activity of law enforcement, it also caused a  
14 little change in that, did it not?

15 A. Yeah. Yes. I would agree with that.

16 Q. Have you been involved in any cases --  
17 investigations before this involving any  
18 allegations of activity involving mujahideen  
19 overseas?

20 A. No. This is my first.

21 Q. And this was a pretty big event for you?  
22 Pretty interesting for you to get into; correct?

23 A. Yes. It's an interesting case.

24 Q. And it was also, as you saw it, a  
25 significant one for you in Medford, Oregon.

1 Unusual would it be? Not in terms of your regular  
2 caseload?

3 A. At the beginning of this investigation?

4 Q. Yes. That's what I'm asking.

5 A. Yes. At the beginning of this investigation.

6 Q. Thank you. I think you've told us that  
7 you cast a pretty wide net with subpoenas?

8 A. I don't believe I said that.

9 Q. You told us you served a lot of subpoenas  
10 I think?

11 A. I don't believe I said that either.

12 Q. Well, then let me ask. Did you serve a  
13 lot of subpoenas in the course of your  
14 investigation in this case?

15 A. Yes.

16 Q. Thank you. You've also indicated that  
17 the FBI had served some subpoenas before you got  
18 in?

19 A. Yes, they did.

20 Q. You subpoenaed bank records?

21 A. I subpoenaed additional bank records and then also  
22 some new ones. But basically, in the beginning, what I did  
23 was I would follow up on missing items and things like that,  
24 yes.

25 Q. Bank records were subpoenaed either by

1 the IRS or the FBI during the course of this  
2 investigation?

3 A. Yes.

4 Q. Escrow records were subpoenaed?

5 A. Yes, they were.

6 Q. Phone records?

7 A. I believe so.

8 Q. Tax records?

9 A. Tax records aren't --

10 Q. Well, you don't have to subpoena them.

11 A. Yes.

12 Q. You certainly obtained them?

13 A. I obtained them, yes.

14 Q. And did you subpoena all the bank records  
15 that you could think of?

16 A. Probably at that time, yes.

17 Q. Okay. You told us, I think, that part of  
18 your job is to subpoena -- or is to follow the  
19 money?

20 A. Yes.

21 Q. All right. And part of your process in  
22 following the money was to try to gather records  
23 that would help you do that?

24 A. Yes.

25 Q. And if I heard you correctly, with

1     respect to that, you served one subpoena or  
2     subpoena for one set of bank records in Saudi  
3     Arabia?

4           A.     Yes. I served one subpoena for the personal account  
5     of Mr. Soliman Al-But'he.

6           Q.     For one bank account?

7           A.     Yes.

8           Q.     All right. Now, I'd like to ask you what  
9     you did not subpoena in terms of this effort of  
10    yours, okay?

11          A.     Okay.

12          Q.     In the year 2004, the United States  
13    government, whether it was you or the FBI, received  
14    a list of approximately 13 bank accounts of the  
15    al-Haramain Saudi Arabia organization; do you  
16    recall that?

17          A.     I don't recall that. The FBI may have received  
18    that. I don't recall that.

19          Q.     Let me show you an exhibit please.  
20    Please show the witness Exhibit 731.

21                 MR. CARDANI: Is that in evidence?

22                 MR. WAX: Excuse me?

23                 MR. CARDANI: Is that in evidence?

24                 MR. WAX: Right now I'm just showing the witness.

25                 MS. SWEET: It is received.

1 MR. WAX: It is received.

2 MS. SWEET: It's been received.

3 MR. WAX: Yes. You can publish it to the jury. It's  
4 been received.

5 Q. (By Mr. Wax) Agent Anderson, would you  
6 please take a look at Exhibit 731. It's a two-page  
7 document. If you could go to the second page,  
8 please. Do you recall the United States government  
9 receiving this document or a copy thereof in 2004?

10 A. I can't say I recall it, but the document looks  
11 familiar.

12 Q. Take a look please at the -- account  
13 number 9889/5. Read us please what that says.

14 A. "Al-Haramain --" I'm sorry. It keeps moving.

15 Q. Could you blow up that line? Thank you.

16 A. It says: "Al-Haramain committee 9889/5 general  
17 charities, Zakat --" do you want me to read the whole thing?

18 Q. Yes, please.

19 A. Okay. "General charity, Zakat --" I'm not sure if  
20 I'm saying this right, "Aqeeqah oath expiation, book printing,  
21 dawah sponsorship of institutions, Qur'an memorization,  
22 clinics, sponsorship of orphans and callers, Palestine,  
23 Chechnya."

24 Q. Chechnya; correct?

25 A. Yes.

1 Q. Now, you told us that you are co-agent?

2 A. Yes.

3 Q. Co-agent is Agent Carroll of the FBI?

4 A. Yes.

5 Q. You don't doubt that this was provided to  
6 the government, whether it was you or Agent Carroll  
7 by Evan Kohlmann, the fellow who was retained by  
8 the government and testified in this case?

9 A. That's likely.

10 Q. Now, I'd like you to look at -- well,  
11 first, let me ask you. Just from this -- any time  
12 between the year 2004, when the government received  
13 this, and today, have you made an effort to  
14 subpoena the Al-Rajhi bank for account number  
15 9889/5?

16 A. I did not make an effort to subpoena those accounts.

17 Q. Thank you. Now, please show, but not to  
18 the jury, Exhibit 704 marked for identification.  
19 Let's start with A please. Now, Agent Anderson,  
20 I'd like you to tell us whether you have seen this  
21 item as long ago as the year 2005?

22 A. I'm not sure of the year but, yes, I have seen this  
23 item.

24 Q. All right. Let's go to the translation  
25 please. This is B?

1 MR. CARDANI: Excuse me. This is not in evidence,  
2 judge.

3 MR. WAX: And it's not going to the jury.

4 MR. CARDANI: So how can she read out loud from it?  
5 It's --

6 MR. WAX: I'm asking -- I'm going now to the  
7 translation please. And I'm asking her to look at it.

8 MR. CARDANI: She can look at it, but she has no  
9 ability to authenticate it.

10 THE COURT: Hang on.

11 THE WITNESS: Okay.

12 Q. (By Mr. Wax) Now, I'd like you to look  
13 at this, and without telling us at this point what  
14 it is that you see --

15 A. Right.

16 Q. -- tell me -- tell us whether or not you  
17 see anything that appears to you to be relevant to  
18 the investigation in this case?

19 A. Yes. I've seen this document and there are parts of  
20 it that would be relevant.

21 MR. WAX: Yes. Thank you. Your Honor, I offer the  
22 704-A and -B into evidence at this time.

23 MR. CARDANI: I object on foundation.

24 MR. WAX: She has told us, your Honor, that she made an  
25 effort to trace this money.

1 THE COURT: Not before the jury. Do I have those?

2 MR. WAX: You do, your Honor.

3 THE COURT: Okay. I'll look at it. Go on to another  
4 subject.

5 What's your foundation for them?

6 MR. WAX: She has told us, your Honor, that she made  
7 every effort she could to trace the money. And I am using this  
8 to show bias and an incomplete investigation.

9 THE COURT: No. What is the --

10 MR. WAX: She has had it and seen it and didn't act.

11 THE COURT: She didn't say that she -- did you say  
12 you've had it?

13 MR. CARDANI: No. Excuse me.

14 THE WITNESS: I've seen the document, your Honor, but  
15 the source wasn't what I considered credible.

16 MR. CARDANI: Judge, there's authenticity grounds on  
17 this and I'd like to be heard.

18 THE COURT: I'll take this up outside the jury's  
19 presence but not now.

20 Q. (By Mr. Wax) There's no question that  
21 you've only subpoenaed one bank account record from  
22 Saudi Arabia?

23 A. Yes. I got authorization to subpoena one bank  
24 account for the personal account of Mr. Al-But'he.

25 Q. Let us turn please to the testimony that



1 -- about the \$21,000. You heard --

2 A. Okay.

3 Q. You heard Mr. Wilcox testify in court  
4 today?

5 A. I did.

6 Q. And did you hear him describe the  
7 transaction and what he did with respect to the  
8 \$21,000 and his understanding about that?

9 A. Specifically what part?

10 Q. I'll read from the transcript. This is  
11 page 216, counsel, about the 21,000.

12 "QUESTION: Okay. Did you have  
13 discussion with anybody about this particular  
14 check and why it was in this account?

15 "ANSWER: Yeah. I asked Mr. Seda  
16 what -- what the 21,000 was for and he told  
17 me that this Soliman had made a donation to  
18 the organization and then they refunded this,  
19 they paid him back this amount."

20 MR. CARDANI: Judge, I object him from actually reading  
21 from the transcript and asking her to comment on witnesses.

22 THE COURT: You're reading it. What's your question?

23 THE WITNESS: I heard --

24 Q. (By Mr. Wax) You heard that testimony?

25 A. I did. Okay.

1 Q. You have described this transaction in a  
2 very different way, have you not?

3 A. I don't believe I commented on the same issues that  
4 you talked to Mr. Wilcox about.

5 Q. Not in this proceeding yet. But you've  
6 described this transaction in the course of your  
7 investigation, and, in particular, in seeking an  
8 indictment from the grand jury; do you recall that?

9 A. I've -- I recall discussing the \$21,000 cashier's  
10 check in various different -- in front of the grand jury, in  
11 other hearings, and things like that, yes.

12 Q. And do you recall telling the grand jury  
13 not what Mr. Wilcox said, that this money was from  
14 Soliman and went back to Soliman, but that this  
15 money was given to Mr. Al-But'he to give back to  
16 the original donor, back to Mr. El-Fiki? Do you  
17 recall that that was your testimony in the grand  
18 jury?

19 A. I don't recall that, but that is possible, yes.

20 Q. Now, in terms of the testimony that you  
21 have given here today, you referred to Mr. Al  
22 Shoumar as an accountant?

23 A. Yes.

24 Q. Have you spoken with him?

25 A. No, I have not.

1 Q. Have you looked at a CV, a resume?

2 A. No, I have not.

3 Q. Do you know if he's an accountant from  
4 any factual source?

5 A. The reason I said that he was an accountant is  
6 because I have reviewed many, many, many e-mails where he is  
7 taking on the accounting responsibilities for the Ashland  
8 branch.

9 Q. He could be a bookkeeper?

10 A. Bookkeepers don't generally direct people to give  
11 them information like that.

12 Q. He could be in a supervisory position  
13 where he is authorized to direct people?

14 A. He could be, yes.

15 Q. He could have an accountant working for  
16 him or under him offering him advice to pass on?

17 A. Actually I did see an e-mail where he does have  
18 someone who does assist him, yes.

19 Q. Okay. You're making an assumption that  
20 he's an accountant without facts; is that not  
21 correct?

22 A. I would say that the e-mails provided me the facts  
23 to make that assumption.

24 Q. It is nonetheless an assumption on your  
25 part; correct?

1 A. Correct.

2 Q. Now, did I hear you correctly in direct  
3 examination say that neither the traveler's checks  
4 nor the cashier's check that were purchased on  
5 March 10th and 11 of 2000 could have been purchased  
6 without the El-Fiki funds? Did I hear you  
7 correctly?

8 A. I'm not sure if I stated that or not. But  
9 definitely the combination could not have been purchased  
10 without the El-Fiki funds.

11 Q. Okay. Well, let me please direct you to  
12 BOA -- BOA-3, please, Ms. Cooke. You've told us  
13 that you reviewed the bank records from the Bank of  
14 America that were subpoenaed?

15 A. Yes.

16 Q. That would mean then that you reviewed  
17 BOA-3, the account record for February of 2000?

18 A. Yes.

19 Q. And if you would please turn to page two,  
20 the account balance on February 23rd. Excuse me.  
21 The account balance shown on February 18th is what?

22 A. The account balance on February 18th is before the  
23 adjustment of the Canadian funds. So, in reality, that  
24 balance isn't correct.

25 Q. What is shown on the bank statement?

1           A.    I don't see a balance for February 18th on this bank  
2 statement.

3           Q.    Daily account balance?

4           A.    Where are you at? You'll have to show me. Okay.

5           Q.    Do you see that, the account balance on  
6 February 18th?

7           A.    Yes.

8           Q.    And it was what?

9           A.    \$708.

10          Q.    All right. And then on February 23rd it  
11 was what?

12          A.    \$37,047.30.

13          Q.    I believe you've told us that you are  
14 aware that the Islamic Society of North America,  
15 ISNA, made a donation that came through al-Haramain  
16 Ashland in February of 2000; correct?

17          A.    Yes. The donation was made right around that same  
18 period of time.

19          Q.    Right. So the 37,000 would reflect the  
20 donation from ISNA?

21          A.    Yes, it would.

22          Q.    And you've seen paperwork related to that  
23 beyond the check? Have you seen anything else  
24 related to that?

25          A.    Beyond the check? I don't understand what you're

1 asking.

2 Q. Beyond the deposit that was made.

3 A. Okay.

4 Q. Do you understand that that was a  
5 donation that was sent in by ISNA for al-Haramain  
6 Ashland to use for a refugee project?

7 A. Yes.

8 Q. For Chechen refugees?

9 A. Yes.

10 Q. So on the 23rd, there's 37,000 in the  
11 account, including this ISNA donation for Chechnyan  
12 refugees?

13 A. Yes.

14 Q. The next day, February 24th, the El-Fiki  
15 donation is credited?

16 A. Yes. That's correct.

17 Q. And the account balance is then reflected  
18 as 186,997?

19 A. Yes. That would be the combination of the two.

20 Q. Now, let me just stop right there for a  
21 moment.

22 A. Okay.

23 Q. And let us go back, please, to AHIF-2.  
24 What is the total amount listed in there for the  
25 brothers and sisters in Chechnya?

1 A. 186,644.70.

2 Q. Pretty close to the 186,997 reflected in  
3 the bank balance on February 24th? Couple hundred  
4 dollars off?

5 A. Yeah. Couple hundred bucks off.

6 Q. Okay. Can we go back to the bank  
7 balance, please? BOA-2, the second page. Sorry.

8 So when you testified that neither could  
9 have been purchased without the El-Fiki funds, that  
10 is not accurate?

11 A. If you'd like, I will correct myself. The  
12 combination could not have been purchased without the El-Fiki  
13 funds.

14 Q. Agent Anderson, the combination of the  
15 \$21,000 check and the \$130,000 in traveler's checks  
16 is \$151,000?

17 A. Correct.

18 Q. Okay. The combination could not have  
19 been purchased?

20 A. Correct.

21 Q. But the total amount is not derived  
22 solely from the El-Fiki funds; correct?

23 A. Correct. Some of the remaining balance had to come  
24 in order to -- yeah. Make up the difference.

25 Q. Am I in the wrong -- it should have been

1 BOA-3. I'm sorry.

2 Agent Anderson, in terms of the presentation that you  
3 have made in this case and the work that you have been doing,  
4 you've acknowledged at least one assumption so far. Isn't it  
5 true that during the course of your work you have made a number  
6 of assumptions and done a fair amount of speculating?

7 A. You'd have to define specifically what that would  
8 be.

9 Q. Well, how about actually using the word  
10 "speculating" while testifying before the grand  
11 jury?

12 A. I don't -- you'll have to tell me what you're  
13 talking about.

14 Q. Do you recall that -- do you recall that  
15 you did that?

16 A. No, I do not recall that.

17 Q. You're --

18 MR. CARDANI: I'm sorry. If you're going to ask her  
19 about specific testimony, I'd ask that she have a copy of the  
20 transcript.

21 Q. (By Mr. Wax) So you don't recall  
22 speculation in the grand jury?

23 A. No. Do you want to show me a page?

24 Q. Let's start, please, on page 70, question  
25 on the bottom of page 70 through the top of page



1 71.

2 "QUESTION: Okay. This is a copy of an  
3 e-mail -- "

4 A. I'm sorry. I'm not there yet. Where are you  
5 please?

6 Q. Bottom of page 70, line 23 is where the  
7 question begins.

8 A. Okay.

9 Q. Okay. "This is a copy of an e-mail, is  
10 it not, from al-Haramain Riyadh with that same  
11 e-mail address that we have talked about earlier?  
12 Looks like the next day, 21st of 2000, to P. Is  
13 that -- what's your speculation there? Who was  
14 this to?

15 "ANSWER: Yes. I believe the e-mail is  
16 to Mr. Sedaghaty from al-Haramain Riyadh."  
17 Do you recall that question and answer?

18 A. Yes. May I explain?

19 Q. Do you recall the question and answer?

20 A. Well, I don't recall it, but I see it before me.  
21 But may I explain?

22 MR. CARDANI: Judge, I ask that she be allowed to  
23 explain the answer.

24 THE COURT: Yeah. Of course.

25 THE WITNESS: Okay. During my grand jury testimony

1 here, it's specifically talking about an e-mail. And at this  
2 time, I did not have the benefit of Mr. Christianson to do the  
3 forensic analysis that was necessarily -- necessary to tell me  
4 what drive it came from, which e-mail address it came from, that  
5 kind of thing.

6 So at this point in time, I was still using Special  
7 Agent Rick Smith and we hadn't had the breakthrough basically on  
8 the computers yet.

9 Q. (By Mr. Wax) So if I just heard you  
10 correctly, you did not have firm evidence and you  
11 engaged in speculation?

12 A. That is not what I said.

13 Q. Let's turn, please, to page 83,  
14 discussion about the traveler's checks and the  
15 bank?

16 A. Which part, please?

17 Q. Starting around line eight. Excuse me.  
18 Line nine.

19 A. Okay.

20 Q. Some questions and answers about  
21 traveler's checks. And then you give a long answer  
22 starting at line 18.

23 A. Okay. So are we dealing with question from nine or  
24 am I going down to 18? Because there's two different  
25 questions.

1 Q. Let's just start on line 14.

2 A. Okay.

3 Q. "QUESTION: Fairly significant  
4 amount. Do you know if banks ordinarily  
5 have those kinds -- in a small town like  
6 Ashland ordinarily have that kind of  
7 traveler's checks on hand?

8 "ANSWER: Well, I spoke with a customer  
9 service manager who was in charge of  
10 traveler's checks during that time and she  
11 believes they did not carry \$1,000 traveler's  
12 checks on hand in a small branch like Ashland  
13 and that these probably had to be special  
14 ordered from American Express in advance.

15 "QUESTION: Now, that was speculation on  
16 his part?

17 "ANSWER: On her part, yes."

18 Does that refresh your recollection about the  
19 presentation of speculation to the grand jury?

20 A. I am not sure what presentation of speculation  
21 you're referring to.

22 Q. Does the word "speculation" appear here  
23 in the transcript in front of you?

24 A. Yes.

25 Q. Thank you. Turn to page 88, please.

1 Line 13.

2 Do you recall being asked: "Do you have  
3 an explanation as to why there are two agreements?

4 "ANSWER: No.

5 "QUESTION: Do you have an explanation  
6 as to why there's a difference in the  
7 amounts?

8 "ANSWER: No.

9 "QUESTION: Do you have investigative  
10 speculation as to why there are two  
11 agreements and two different amounts?

12 "ANSWER: Yes."

13 Do you recall that question and answer?

14 A. I see it before me, yes.

15 Q. And do you recall then going on to offer  
16 some speculation?

17 A. I don't believe I offered speculation. Basically I  
18 offered what I knew at the time based on my analysis.

19 Q. You said, at line 16 through 18, you did  
20 not have an explanation; correct?

21 A. Yes.

22 Q. And then starting at line 23, in response  
23 to the question whether or not you have  
24 investigative speculation, you said: Yes; correct?

25 A. Yes.

1 THE COURT: We're going to take a short break. One of  
2 you needs to make a phone call. Just take the juror to the room,  
3 all right? The rest of you can stand and stretch. So we're off  
4 the record for a few moments.

5 (A short recess was held.)

6 THE COURT: All right. We'll go back on record.  
7 Mr. Wax, you may continue.

8 MR. WAX: Thank you.

9 **CROSS-EXAMINATION OF COLLEEN ANDERSON** (continued)

10 BY MR. WAX:

11 Q. Just one more question in this line,  
12 Agent Anderson. If you could turn to page 93,  
13 please. Discussion about the CMIR forms and some  
14 comments by Mr. Al-But'he.

15 A. I'm sorry. Can you give me a line number please?

16 Q. I'm getting to that.

17 A. Okay.

18 Q. Line 14, question follows: "All right.  
19 And based on your examination of the forms, do you  
20 have investigative speculation as to whether that's  
21 true or not, what he said to the Wall Street  
22 Journal is true or not?

23 "ANSWER: Well, my speculation --" do.  
24 you recall that question and your use of the word "speculation"?

25 A. Actually I do on this one. And being that it's

1 based on a newspaper article, it was speculation.

2 Q. Thank you. In terms of the presentation  
3 in the grand jury, looking at page 102, do you  
4 recall describing to the grand jury in your  
5 testimony how the Springfield building schedule  
6 came into being?

7 A. Can you tell me what line number you're referring  
8 to?

9 Q. Well, first, do you have recollection of  
10 testifying to the grand jury about how the  
11 Springfield building schedule came into being?

12 A. Yeah. I -- it was several years ago in 2004, but I  
13 have a general idea of how I testified, yes.

14 Q. All right. And do you recall that the  
15 testimony that you gave was explicit that Mr. Seda  
16 created the building schedule, printed it, and gave  
17 it to Mr. Wilcox?

18 A. Yes. My testimony regarding the 21 in the grand  
19 jury pertained to that part of it was based on conversations  
20 with Tom Wilcox.

21 Q. And you swore under oath and gave the  
22 grand jury a description based on that information  
23 as you had understood it from Mr. Wilcox?

24 A. As I understood it from Mr. Wilcox at that time.

25 Q. And he has now you heard told us that

1 that was not how it happened?

2 A. That's correct.

3 Q. All right. Now, Agent Anderson, you  
4 described a bit of the process of your review of  
5 the computers?

6 A. I'm sorry. Are we done with the grand jury  
7 testimony?

8 Q. Yes. Today, you've described for us a  
9 bit of the process of your review of the computers;  
10 correct?

11 A. Yes. That's correct.

12 Q. And if I heard you correctly, you said  
13 that you focused on what you believed to be the  
14 relevant time period: January, February, March of  
15 2000; correct?

16 A. Correct.

17 Q. And if I understood you correctly, you  
18 made an effort to pull out what you considered to  
19 be representative e-mails of the activity that was  
20 going on in that time frame?

21 A. I believe what I said was I made an effort to pull  
22 out representational samples of the Sheeshaan e-mails during  
23 that time, yes.

24 Q. But the Sheeshaan e-mails were just one  
25 small part of the e-mails that were found on the

1 computer, were they not?

2 A. Yes. There were lots of e-mails on the system  
3 between the time period of maybe December of '99, all the way  
4 through maybe February of '03.

5 Q. Well, let's just focus on what you  
6 considered to be the relevant time frame.

7 A. Okay.

8 Q. Did you make an effort to put in  
9 chronological sequence the e-mails that reflect not  
10 what someone is sending to al-Haramain, but the  
11 e-mails emanating from al-Haramain?

12 A. I reviewed those e-mails, but I did not put them  
13 into a chronological order, no.

14 Q. Did you make any effort to look at the  
15 words uttered by my client in that relevant time  
16 period as contrasted with the e-mails that were  
17 sent out by people such as Abdul Qaadir or to the  
18 Sheeshaan list?

19 A. What specific e-mails are you referring to?

20 Q. Well, I'm asking you did you make an  
21 effort to analyze and put in chronological order  
22 e-mails sent by Pete Seda in January, February, and  
23 March of 2000?

24 A. Well, I reviewed e-mails if they matched my search  
25 terms. Again, how I came up with the documents, because there



1 are thousands of e-mails, is that I would put specific search  
2 terms in there and pull up those documents. If it was  
3 relevant in the sense of it hit one of my search terms, and it  
4 was sent out by Mr. Sedaghaty, then, yes, I reviewed it.

5 Did I put those in chronological order and are they  
6 on my spreadsheet? No.

7 Q. Did you consider it relevant if an e-mail  
8 discussed humanitarian aid?

9 A. Yes, I did.

10 Q. Did you consider it relevant if an e-mail  
11 discussed aid to refugees?

12 A. Actually, let me correct my statement. I felt that  
13 it was relevant if it was during my time period, if it  
14 pertained to Chechnya, and it discussed aid, yes.

15 MR. WAX: Your Honor, I'm going to reoffer a number of  
16 exhibits. The first series are under advisement, 682, 683  
17 through 683-D.

18 MR. CARDANI: Can I have -- oh, excuse me.

19 THE COURT: Any objection?

20 MR. CARDANI: With the limitations that the Court put  
21 earlier on the use of these things, no objection.

22 THE COURT: They are received.

23 (Exhibit Nos. 682 & 683-A-683-D were received into evidence.)

24 MR. WAX: Thank you. Can we please show to the jury  
25 then 682?

1 THE COURT: The limitations are, counsel, these  
2 generally are hearsay, but I'm going to let them in but not for  
3 the truth of them.

4 Q. (By Mr. Wax) Agent Anderson, do you  
5 recall seeing this e-mail on the computer?

6 A. Yes, I do.

7 Q. An e-mail from Islamic Relief  
8 Organization describing the situation and plight of  
9 the refugees, Chechen refugees, in Chechnya?

10 A. Yes, I see those things.

11 Q. Could we go to 683 please? Do you recall  
12 seeing this e-mail on computer?

13 A. Yes, I do.

14 Q. And this is an e-mail from Pete to  
15 Al-But'he?

16 A. Yes, it is.

17 Q. And the date on it is December 30, 1999?

18 A. Yes.

19 Q. The subject: Human help for Chechnya?

20 A. Yes, that's the subject line.

21 Q. And what is -- the text is: Chechnya,  
22 spelled incorrectly, check this out; correct?

23 A. Yes. That's correct.

24 Q. And the e-mail, Mr. Seda is forwarding to  
25 Mr. Al-But'he an e-mail that came in from something

1 called AIDORG; correct?

2 A. Correct.

3 Q. And describing having an -- "In Spain, a  
4 lorry of 24 tons human help for Chechnya and need  
5 aid to send it"?

6 A. Yes.

7 Q. And just so the record is clear on this,  
8 I believe that we've had testimony that the first  
9 reference to Mr. El-Fiki doesn't come up until  
10 sometime in mid-January?

11 A. The first reference in the e-mails?

12 Q. Yes. Any reference, any e-mail  
13 communication between Mr. El-Fiki and al-Haramain  
14 Saudi Arabia occurs sometime in mid-January?

15 A. I believe so. I can look it up if you like.

16 Q. All right. Several weeks after this?

17 A. Yes.

18 Q. Thank you. 683-A please. Are you fluent  
19 in Spanish per chance?

20 A. No, I'm not.

21 Q. Turn to the second page please. It  
22 appears to be an English translation describing an  
23 association in Spain that wants to help people,  
24 Palestine, Lebanon, and Chechnya. "At present, we  
25 have obtained human help, blankets, clothes --"

1 looks like a typographical -- "for the Muslim  
2 people in Chechnya. Whole things are ready. We  
3 have a lorry, one driver, and a translator who can  
4 speak several Slavian languages and money for the  
5 travel"?

6 A. Yes. That's correct. May I ask a question? Is  
7 this all a part of the same e-mail for AIDORG?

8 Q. You tell me, Ms. Anderson. You reviewed  
9 the computer.

10 Do you recall that you told us, 683, the  
11 e-mail --

12 A. Yes. Is this part of that e-mail? That's what I'm  
13 asking.

14 Q. You tell me. And these were all  
15 presented to you for review by Mr. Christianson,  
16 were they not?

17 A. Yes, they were. And I reviewed them.

18 Q. Thank you. Let's turn to 683-B please.  
19 Do you recall seeing this e-mail?

20 A. Yes, I do.

21 Q. Mr. Al-But'he's response to Mr. Seda;  
22 correct?

23 A. Yes.

24 Q. And he says: "We are ready to take it  
25 and disrupted --" probably a misuse of words -- "to

1 our office in Paco. Just give us full details how  
2 we can contact them"?

3 A. That's correct.

4 Q. Do you recall seeing this?

5 A. I do.

6 Q. Turn to 683-C please. Another e-mail  
7 from P to Al-But'he?

8 A. Yes.

9 Q. Dated January 1st?

10 A. Yes.

11 Q. Subject line: Horrible condition?

12 A. Uh-huh.

13 Q. "My beloved brother Soliman, please give  
14 your best support and effort in exploring in the  
15 idea for me taking a large truck convoy of food and  
16 medicine to Chechnya. Goal is to enter and relieve  
17 Grozny which, by that time, would be much worse and  
18 horrible condition with U.N. support and evacuate  
19 the wounded in Inshallah;" do you recall having  
20 read this?

21 A. Yes. I read this.

22 Q. "And then if unsuccessful in entering  
23 Grozny after several exhaustive attempts, second  
24 secret alternative is to take the convoy to relieve  
25 the worst of the refugee camps in Inshallah and

1 evacuate the wounded in Inshallah. Urgent.

2 Respond requested;" do you -- do you recall this  
3 entire e-mail?

4 A. I do.

5 Q. If you could turn to 683-D please. Do  
6 you recall seeing this e-mail on the computer?

7 A. Yes. This is a reply back to the same e-mail.

8 Q. And in this Mr. Al-But'he is responding  
9 to Mr. Seda, January 2nd of 2000: "My dear  
10 brother, this is what we are doing since this war  
11 start. All what we need is to fund Jazak Allah  
12 Khair Soliman;" do you recall this?

13 A. I do.

14 Q. Again, this is several weeks before  
15 anything transpires or comes from Mr. El-Fiki?

16 A. Correct.

17 Q. And what Mr. Seda is being told here by  
18 Mr. Al-But'he is that what al-Haramain Saudi is  
19 doing is what Mr. Seda asked, providing supplies to  
20 the refugees of the Chechen war; correct?

21 A. That's what he states in here, yes.

22 MR. WAX: Thank you. 684. No, not 684. The next one  
23 would be 686. And I believe, your Honor, that the next series  
24 were all previously received.

25 Q. (By Mr. Wax) So 686. Do you recall

1 seeing 686 in the e-mail? On computer -- excuse  
2 me.

3 A. Yeah. I specifically remember this e-mail because  
4 -- may I explain?

5 Q. Well, first, do you recall seeing it?

6 A. Yes, I do.

7 Q. Let's identify it first please. This is  
8 an e-mail from -- on the top, Mr. Al-But'he to  
9 Mr. Seda?

10 A. Yes.

11 Q. And if you look down it appears to be an  
12 e-mail in which Mr. Al-But'he is responding to an  
13 e-mail sent by Mr. Seda?

14 A. Correct.

15 Q. Okay. So let's start with the bottom  
16 one.

17 A. Okay.

18 Q. You see Mr. Seda, on January 6th, telling  
19 Mr. Al-But'he that he was depositing 3,000 Zakat to  
20 our account so you can distribute it to the Chechen  
21 refugees as soon as possible. Please e-mail me  
22 back confirmation of this request. Do you recall  
23 that?

24 A. Yes. I specifically recall the depositing 3,000 to  
25 our account. Yes.

1 Q. Okay. And the response from

2 Mr. Al-But'he: "I will do my best"?

3 A. Correct.

4 Q. Now, with respect to the bank records --

5 A. Uh-huh.

6 Q. -- do you recall reviewing the bank  
7 records for November, December, and January of 1999  
8 and 2000?

9 A. Yes.

10 Q. And do you recall seeing a number of  
11 checks having come in that were specifically  
12 earmarked for Chechen relief?

13 A. I did. And I looked for this check and I could not  
14 find it.

15 Q. Well, did you look to see if there were a  
16 series of checks and make any efforts at --

17 A. I did. Actually, I have a list of checks here.

18 Q. All right. Thank you.

19 MR. CARDANI: Excuse me. Wait. I don't think she was  
20 done explaining her answer.

21 MR. WAX: Well, the question was whether she did and  
22 she said yes.

23 THE COURT: Did you have further explanation?

24 THE WITNESS: Well, I believe Mr. Wax said I could  
25 explain why this e-mail was important.



1 MR. WAX: I didn't ask that question.

2 MR. CARDANI: Judge, I'd ask that she be able to  
3 explain the significance of that e-mail to give full context.

4 THE COURT: Go ahead.

5 THE WITNESS: Okay. The reason I specifically remember  
6 this e-mail is because when I saw this -- where they're  
7 describing the 3,000 Zakat deposit to our account, I have the  
8 al-Haramain main account. And like you asked, I have reviewed  
9 the '99 and 2000 bank records like I had told the jury before.

10 Basically what I do is I input the records into an  
11 Excel spreadsheet, both the deposits and the outgoing. And then  
12 I went through and any checks that were definitively marked as  
13 Chechnya, I went ahead and highlighted -- I like to color-code my  
14 spreadsheets. So I color-code so I can tell which ones actually  
15 go to Chechnya. And while doing that, I could not find this  
16 \$3,000 in the account. And so it -- basically made me wonder if  
17 I'm missing an account.

18 Q. (By Mr. Wax) Agent Anderson, I'm going to  
19 ask you again, in terms of bank records that you  
20 sought --

21 A. Yes.

22 Q. You sought no bank records from  
23 al-Haramain Saudi Arabia; correct? You served no  
24 subpoenas? I will put it that way. You served no  
25 subpoenas on al-Haramain Saudi Arabia; correct.

1 MR. CARDANI: Excuse me. Judge, this is straying into  
2 an area where I'm going to have some strong objections.

3 MR. WAX: She's already testified that she's served no  
4 subpoena --

5 THE COURT: I don't want argument in front of jury.

6 MR. WAX: Your Honor, our witness can come back  
7 tomorrow morning. He said he could stay overnight. So if this  
8 would be a convenient time to stop and we could perhaps take up  
9 the evidentiary matters.

10 THE COURT: Are there some others?

11 MR. WAX: Well, there's the other one that I had asked  
12 you to rule on earlier.

13 THE COURT: There's others though that we're going to  
14 need to take up?

15 MR. WAX: Related to the same subject matters, yes.

16 THE COURT: All right. Members of the jury, I'll see  
17 you at 9:00.

18 (Jury exits courtroom.)

19 THE COURT: All right. With regard to -- are they out?  
20 The jury is out?

21 With regard to the 704-A and -B, tell me when you saw  
22 them and where they came from.

23 THE WITNESS: I'm sorry?

24 THE COURT: Do you know tell me when you saw 704-A and  
25 -B and where they came from if you know?

1 THE WITNESS: The first time I saw these, your Honor,  
2 they came from the codefendant's -- I guess you'd call him civil  
3 attorney in Saudi Arabia. And he tried to present them to us as  
4 being authentic records.

5 THE COURT: All right. Go ahead and have a seat. You  
6 can keep them there for the time being.

7 Any other questions on the issue of foundation?

8 MR. CARDANI: Yes. Yes, judge. There's no -- there's  
9 no witness to lay true authenticity and business records under  
10 the Federal Rules of Evidence for these exhibits.

11 THE COURT: Well, I haven't heard any yet but I just  
12 want to know if you had more questions.

13 MR. CARDANI: That's all --

14 MR. WAX: I don't have any other questions, your Honor,  
15 no.

16 THE COURT: All right. Do you have some argument on  
17 it?

18 MR. WAX: Yes, please.

19 THE COURT: Okay.

20 MR. WAX: As an investigator in a criminal case, it  
21 seems to me it is incumbent on the government to investigate  
22 potentially exculpatory evidence. The witness was presented by  
23 her expert with a list of Al-Rajhi bank account information. She  
24 was provided 13 bank account numbers, including 9889, the  
25 Chechnya account. She's then provided, by a person she

1     distrusts, receipts with that same bank account record on them.  
2     And she doesn't make an effort to see whether that bank account  
3     reflects the deposit of \$187,000, virtually the same amount  
4     reflected on the two receipts -- excuse me, the two contracts, if  
5     you will, between Mr. Seda and Mr. Al-But'he.

6             And the jury has a right to know that. She is  
7     representing -- or the government is representing that this was a  
8     fair and thorough investigation. And we respectfully submit it  
9     was not.

10            And when the witness says, "My job is to trace the  
11     money," and she is provided records that say, "This is where the  
12     money went," the jury has a right to know that she didn't look.  
13     The bank records from the Al-Rajhi bank, the government went  
14     through a whole deal. The \$21,000 was deposited, the \$130,000,  
15     the traveler's checks were cashed. There's something I can't say  
16     in the open court. The \$130,000 were cashed. The jury has a  
17     right to know that that \$130,000, which was not cashed, was  
18     available for deposit on the very same day -- excuse me,  
19     deposited at al-Haramain on the very same day that the traveler's  
20     checks were cashed.

21            The first of the two receipts from al-Haramain, 704 and  
22     705, is written out on March 14th, the day the government has  
23     told us the traveler's checks are cashed. And I submit the jury  
24     has a right to know that.

25            And whether they're offered for the truth or not as

1 part --

2 THE COURT: Here's what I'm struggling with. If you  
3 want to say that she didn't do a thorough job, that's one thing.  
4 But there's nothing -- there's nothing in the record that would  
5 compel me to allow this exhibit -- there's no foundation for it.

6 MR. WAX: The foundation is it's in her possession,  
7 your Honor. And as an investigator, she has an obligation to  
8 pursue the lead when it is the lead that could go to the  
9 exculpatory evidence of the case. And if the government turns a  
10 blind eye to something in its possession, when its own expert has  
11 given them something that matches it, that's relevant.

12 Tell them it's not for the truth of it, you know, I --  
13 I appreciate that. But the foundation is it's in her possession  
14 and she didn't act when she has told the jury: My job is to  
15 trace the money. And she didn't.

16 MR. GORDER: Your Honor, if I could address -- there's  
17 two problems here. The first is these two exhibits were produced  
18 by the codefendant's attorney in 2004, four years after the fact.  
19 That is not a foundation for authenticity.

20 The Court is well aware that the codefendant is a  
21 special-designated global terrorist and that this organization is  
22 a special-designated global terrorist and has also been  
23 designated by the United Nations and shut down by the Kingdom of  
24 Saudi Arabia.

25 Now, to authenticate these records, it takes more than

1 a codefendant's attorney to hand something to the government.

2 And we would object to that.

3 I also think the insinuation that Ms. Anderson has been  
4 sloppy or not done her job is inappropriate and I can't say  
5 anything more than that in open session.

6 THE COURT: All right.

7 MR. WAX: Judge, they have offered the records that  
8 came from the same lawyer. The AHIF exhibits were produced from  
9 Saudi Arabia through counsel. And it seems to me that they  
10 should be estopped from offering something from a lawyer and then  
11 saying the same lawyer presents me something else and we're not  
12 going to look at it. That's not right.

13 THE COURT: All right. Let's go to this other matter.  
14 The questions that was coming in. Can we do that in open court  
15 or do we need to do it in a closed session?

16 MR. CARDANI: And is this -- are these the questions  
17 get into the extent of her investigation? Is the same issue that  
18 Mr. Gorder just responded to?

19 THE COURT: All right.

20 MR. CARDANI: Judge, I'm sorry, if I could add one  
21 thing. It has already been established that she did not subpoena  
22 these other accounts listed in that exhibit. That's already been  
23 established. So I think that's -- that's all you need -- that's  
24 as far as we need to go.

25 THE COURT: All right. We're going to be in recess

1 here. We're going to go to a closed session. And we're going to  
2 do it in the jury room on the fourth floor.

3 MR. MATASAR: Will the courtroom be open when we're  
4 done, your Honor?

5 THE COURT: Yes.

6 (The proceedings recessed at 5:48 p.m.)

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**C E R T I F I C A T E**

STATE OF OREGON       )  
                                  )  
County of Lane        )

I, JAN R. DUIVEN, Certified Shorthand Reporter for the State of Oregon, in and for the County of Lane, do hereby certify that the foregoing pages 129 to 278, comprise a complete, true, and correct transcript, to the best of my ability, of the proceedings held in the above-entitled matter on THURSDAY, SEPTEMBER 2, 2010.

Dated at Eugene, Oregon, this 2nd day of September, 2010.

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JAN R. DUIVEN, CSR, FCRR

Certified Court Reporter